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GOVERNMENT  
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GEORGE S. MESSERSMITH



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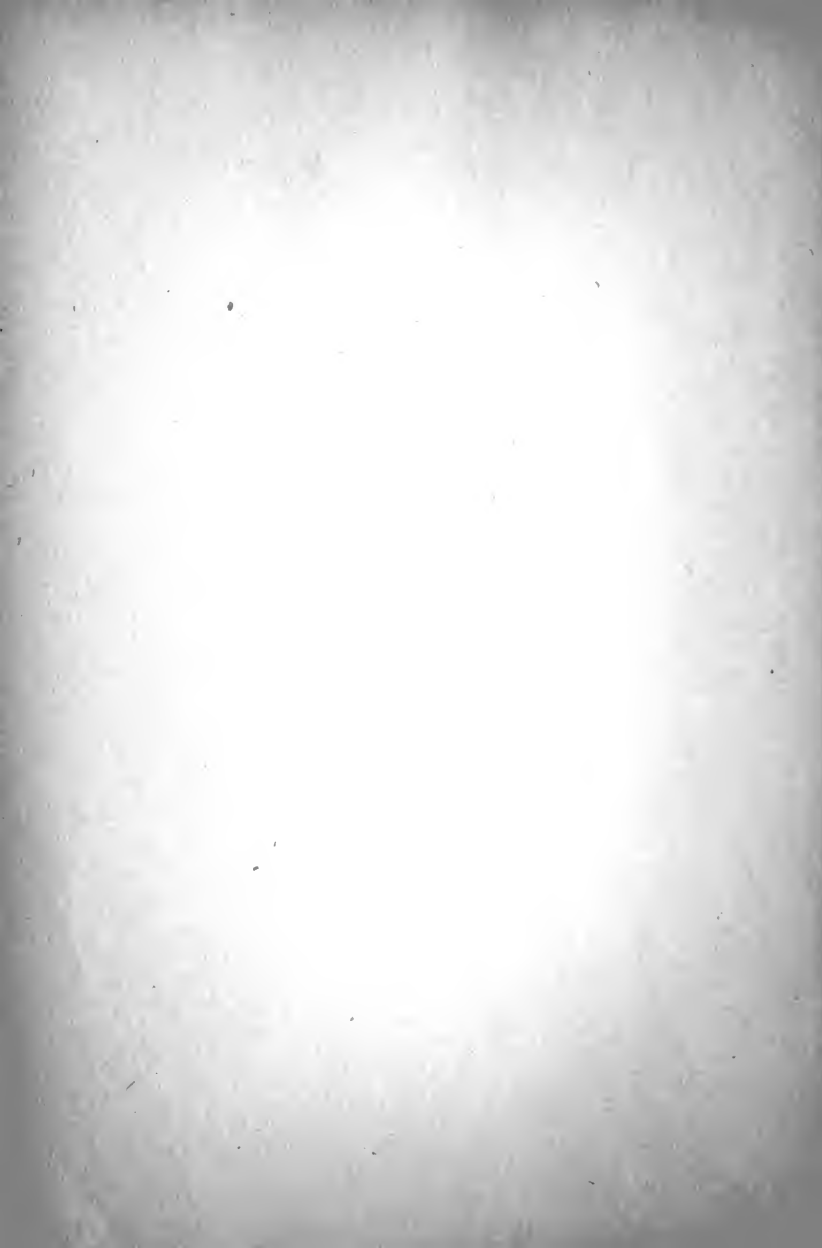
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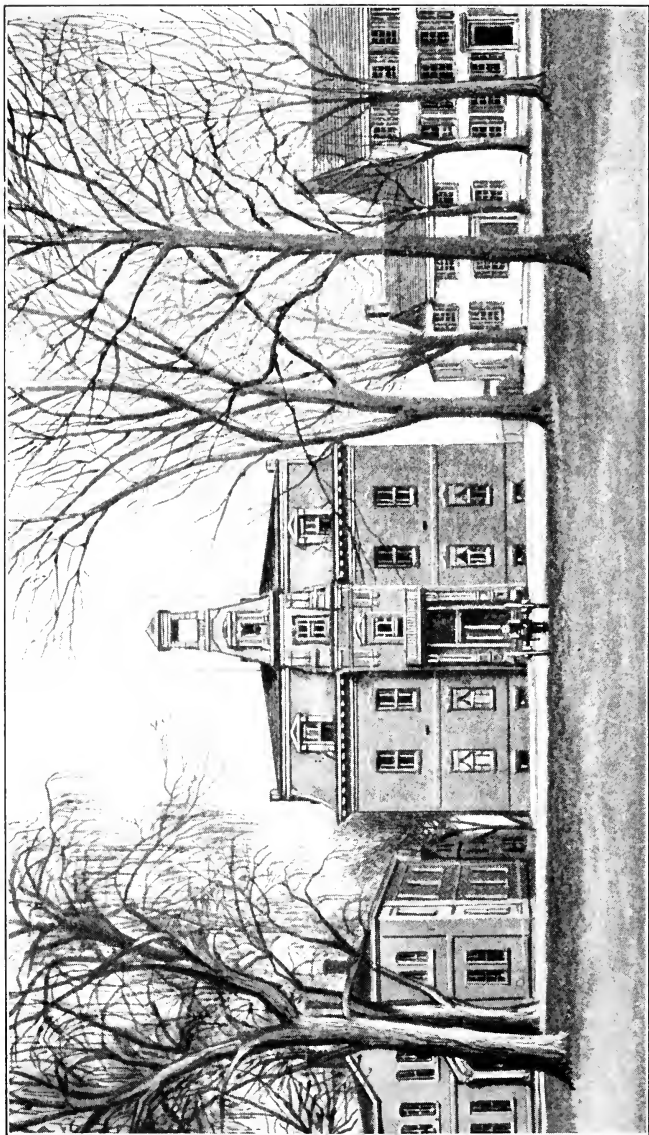
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*TO MY MOTHER*



THE CAPITOL, DOVER

# THE GOVERNMENT OF DELAWARE

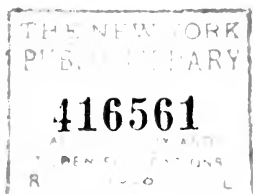
BY

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GOV. OF DEL.

W. P. I

## PREFACE

THIS book has been prepared to meet the needs of the classes in Civics in our Delaware schools, and of that large proportion of our citizens who desire an intimate knowledge of Delaware government. Ample provision has been made to secure the teaching of national government in the schools, and the books, newspapers, and magazines of the day bring the scheme of our central government to the people in general. It seems a paradox, and yet it is true, that as a rule a citizen knows more of the national government, with which he may never come in actual contact, than he does of his own State, county, and local government, with which he comes in contact almost daily.

It is difficult to secure a correct and adequate conception of our State government, as the data are hidden in many volumes of the law. My aim has been to present the entire scheme of government as exercised in this State: the legislative, executive, and judicial functions of the State, the county government, the government of incorporated towns and cities, and the local government in the Representative district.

Every effort has been made to secure accuracy and clearness. At the risk of repetition, I have discussed several important topics at more than one place, though in different aspects. I have endeavored to make my style and manner of presentation such that the pupils in the high schools and in the upper classes of our ungraded

schools may use the book intelligently. If the mature reader finds lengthy explanations and a simple style, it is because I have endeavored to appeal primarily to the immature minds of pupils. Endeavor has been made to condense the subject-matter, but at no place have comprehensiveness and clearness been sacrificed for brevity.

I venture to make a few suggestions which may be helpful to some teachers.

I. It will generally be found most productive of good results to teach Delaware government prior to United States government. The first half of the year may be devoted to State government and the latter half to national government.

II. In the high schools and in classes of fairly mature students the whole book should be used for class work. In the ungraded schools the teacher must use discretion in determining on which parts to lay most stress. In ungraded schools it would be inadvisable to spend much time on the chapter on Wilmington City Government.

III. In general the subject-matter should be taken up in the order in which it appears. This arrangement is logical and carries the pupil from the comparatively simple local government to the more complex State government.

IV. The topics in a chapter on which stress is to be laid must be determined by the teacher. All useless matter has been kept out of the text, but it is evident that not all topics are of equal importance. The jurisdiction of the various courts in the chapter on the Delaware Courts can be stated more briefly by the teacher for younger students.

V. The teacher can infuse much interest into the work by applying concretely to the local government the principles and facts stated in the text. The study of Civics



is without value if it does not enable the pupil accurately and clearly to comprehend the actual government of the district, town, county, and State.

I wish to acknowledge my indebtedness to the many State, county, and local officers who answered my repeated inquiries with uniform courtesy. My thanks are due to Henry C. Conrad, Esq., David C. Rose, Esq., Chief Justice Charles B. Lore, Judge William H. Boyce, Judge James Pennewill, Dr. George W. Marshall, Dr. George A. Harter, Charles B. Evans, Esq., and to Superintendents J. E. Carroll and John D. Brooks, for valuable suggestions and for reading parts of the manuscript. To Hon. L. Irving Handy and to Superintendent A. R. Spaid I am especially indebted for their careful and intelligent criticism of the entire manuscript, and to Dr. W. Owen Sypherd for his aid in correcting the proofs. These gentlemen are not responsible for any errors the book may contain; but without their aid, this book could not have been written.

GEORGE S. MESSERSMITH.

NEWARK, DELAWARE.

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# THE GOVERNMENT OF DELAWARE

## CHAPTER I

### DELAWARE GOVERNMENT PRIOR TO 1897

**The Aborigines.** — At the time when colonies were being formed in the New World, that part of the continent of North America which is now included within the limits of Delaware was inhabited by roving tribes of Indians. The Delaware or Lenape Indians were in the upper part of New Castle county, and had one of their important council houses near the present site of Wilmington. Several tribes of the Minquas also frequented the upper part of the State. The greater part of the peninsula was held by the Nanticoke Indians. The Accomac Indians occupied the lower part of the peninsula.

The Indians on this peninsula were fishing Indians, in marked contrast with the Indians in other parts of the East, who were hunting Indians. As such they were not so fierce as the hunting Indians. They had also been conquered by the Five Nations, and made "squaws"; that is, they were forbidden to make war.

The Swedish and Quaker settlers in Delaware were fortunate in settling among peaceable Indians; the early history of our State is therefore remarkably free from the

stories of strife and massacre which form so large a part of the early history of some of the other colonies.

**Settlement of Delaware.** — In 1631 an expedition was sent out from Holland under the control of David Pietersen de Vries of Hoorn, an experienced Dutch sailor and soldier. The expedition consisted of one ship of war, the *Walvis*, or *Whale*, a ship of eighteen guns, and a smaller vessel which carried the settlers and the implements necessary to begin a settlement. It seems likely that De Vries did not accompany this expedition himself, but gave it into the care of Peter Heyes. They came up Delaware Bay and sailed up to a small stream which they called the Hoornekill, after the town of Hoorn, the home of the patron of the expedition, De Vries. On this stream a settlement was made in 1631 near what is now Lewes, and was named Zwaanendael, or "Valley of Swans," because the colonists found many wild fowl along the creek. The same year Captain Heyes left for Holland, and in his absence the settlers treated the Indians with unusual harshness; in return the Indians killed or carried away all the settlers and burned the fort and the homes which had been erected. Thus was wiped out the first settlement in Delaware. De Vries visited the place in 1632, but found nothing but the bones of the settlers and their cattle, and the blackened and charred ruins of the fort and the houses. Discouraged, he returned to Holland.

William Usselinx, as early as 1590, had proposed the formation of a Dutch West India Company, and in 1624 he petitioned Gustavus Adolphus, King of Sweden, to form a company, saying that it would spread the Protestant faith for which he was fighting and would bring money into the royal treasury. Gustavus Adolphus readily organized such a company, but his time was then taken up by his wars

with Germany and the Poles, and he could not "give laws to two worlds at once." The affairs of the company did not prosper. After Gustavus Adolphus was killed at the battle of Lützen in 1632, Oxenstiern persuaded Queen Christina, who succeeded Adolphus, to revive the company. The Queen took an interest in the plan, and Peter Menewe, or Minuit, as he is better known, was called to make plans for settling the New World. Peter Minuit had been Governor of the Dutch colony of New Amsterdam, but not being well liked, and being dissatisfied with his treatment by the Dutch, he returned to Europe. Minuit was very glad to aid the Swedes in their enterprise, for he felt that he could in a measure secure revenge; then, too, he was truly interested in the new lands of America.

By 1637 an expedition was fitted out, chiefly under the direction of Minuit. Two ships, the *Key of Kalmar* and the *Bird Griffin*, carried the settlers and their goods. Early in 1638 the ships arrived in Delaware bay, and the first landing, by a strange chance, was made near Lewes, only a few miles away from the unfortunate settlement founded by De Vries. After resting here on land for a few days, the new settlers went on board their ships again and sailed up the bay about eighty miles. They then sailed a short distance up a creek which they called the Christina, after the Queen of Sweden. Here they built a fort which they named Fort Christina, and then started the first town in Delaware, called Christianaham or Christina harbor. Minuit bought the land from the Minquas Indians and named the country New Sweden.

As soon as the Dutch at New Amsterdam heard of the new colony, Governor Kieft protested and sent word to Minuit to leave. Minuit did not heed this request, but instead set out for Sweden to bring more colonists and

supplies. On his voyage back he left his own ship, the *Key of Kalmar*, to visit a friend on *The Flying Deer*. In a storm this ship went down. The colony being thus deprived of Minuit's services, Peter Hollender was chosen to succeed him; he in turn was succeeded by John Printz. Printz brought many new colonists with him, among them the celebrated Campanius, who did much for religion in New Sweden and whose journal or diary is the source of much information as to the early history of the colony. Governor Printz was in constant conflict with the Dutch, who had a fort on the other side of the Delaware and who in 1654 crossed and built Fort Casimir near what is now New Castle. In order to secure aid to drive out the Dutch, Printz went back to Sweden, and while he was gone John Pappegoya acted as Governor. John Claude Rysing was then appointed Governor, and on his arrival at New Sweden in 1654 he sent Sven Schute to take Fort Casimir. The Dutch were unprepared, and Schute was successful. When Peter Stuyvesant, the new Dutch Governor at New Amsterdam, heard of this capture he set out with a force of about seven hundred men and retook Fort Casimir without firing a gun (1654). Then he marched against Fort Christina and compelled Governor Rysing to surrender. The Swedes who swore allegiance to the Dutch government were left in possession of their lands; the rest were taken to New Amsterdam. Thus New Sweden was no more.

The Dutch ruled the colony until 1664, when Charles the Second of England granted all the lands between the Connecticut river on the north and Delaware bay on the south to James, Duke of York. The Duke of York at once sent a fleet to America to take possession of New Amsterdam, which he renamed New York, and on Sep-

tember 30, 1664, the Dutch settlements on the Delaware were surrendered to the English. Thus ended the Dutch rule on the Delaware. The colony was now governed from New York.

In 1681, Charles the Second granted to William Penn, an English Quaker, as payment for a debt, a large tract of land in America. This tract the King called Pennsylvania. By another grant from the Duke of York, Penn was given part of the land now included in the State of Delaware. On October 27, 1682, Penn himself landed at New Castle and formally took possession of New Castle county, and shortly after of the two lower counties. The name Whorekill county was changed to Sussex county, and St. Jones county was changed to Kent county. The three counties were known as "The Three Lower Counties on the Delaware." They were governed together with Pennsylvania under Penn's plan of government, the "Great Law." Each county was represented in the two houses of the Assembly provided for in Penn's "Great Law," and they had one Governor in common with Pennsylvania, appointed by Penn.

"The Three Lower Counties on the Delaware" prospered, but they had constant trouble with the other counties of the province of Pennsylvania. In 1704, therefore, the members of the Assembly from the three lower counties seceded and formed an Assembly of their own, holding their meetings at New Castle. Penn reluctantly agreed to this plan. Thus from 1704 to 1776, when Delaware became a separate State, the three lower counties had a separate Assembly, but they had the same Governor as the rest of the province of Pennsylvania and remained in name a part of that province. Such was the government up to the stormy days of 1776.

**The First Constitution ; Delaware as a Separate State. —**

On May 15, 1776, the Continental Congress at Philadelphia passed a resolution favoring the formation of a separate government in each colony. The Assembly of "The Three Lower Counties," in accordance with this resolution, authorized an election for members of a convention which was to form a constitution. This convention met at New Castle, August 27, 1776, and completed its work by September 21 of that year.

The constitution declared "The Three Lower Counties" a separate State, now to be known as "The Delaware State." The highest officer was the "President or Chief Magistrate," who was chosen by joint ballot of both branches of the Assembly for a term of three years. He was aided by a Privy Council composed of four members, two of whom were chosen by each branch of the General Assembly.

The lawmaking power was granted to a General Assembly, composed of two houses. The lower house was called the House of Assembly, and was composed of seven members from each county, chosen by the freeholders for one year. The upper house was called the Council and was composed of three members from each county, chosen by the freeholders for a term of three years.

The constitution contained thirty articles. The twenty-sixth is worthy of special note :

Art. 26. "No person hereafter imported into this State from Africa ought to be held in slavery on any pretense whatever, and no negro, Indian, or mulatto slave ought to be brought into this State for sale from any part of the world."

This constitution was much criticised, but Delaware was governed under it during the Revolution and up to 1792.



Delaware took an active part in the War of the American Revolution. Although there were many Tories in some parts of the State, the people on the whole were devoted patriots and suffered and fought for their rights; considering the size of the State, Delaware furnished a large number of soldiers for the patriot armies. Some of her soldiers and statesmen rendered great service to the cause of liberty. The Delaware members of the Constitutional Convention which met in Philadelphia in 1787 to form a government for the now independent colonies, took a prominent part in framing the Constitution of the United States. Delaware was the first State to ratify this Constitution, doing so on December 7, 1787, thus aiding very much the speedy ratification by other States.

**Constitution of 1792.** — The General Assembly on September 8, 1791, passed a resolution calling a constitutional convention to form a new State constitution. The convention met in Dover, November 29, 1791, and completed the new constitution on June 12, 1792.

The new constitution provided for a chief executive who was called the Governor. He was chosen by the people for a term of three years. He had much larger powers than the "President" under the constitution of 1776. The new constitution did not provide for a Privy Council.

The lawmaking power was granted to a Senate and a House of Representatives. The Senate had nine members, three from each county, and the House of Representatives twenty-one members, seven from each county.

The new constitution contained more detailed provisions for the establishing of courts. This constitution was in effect until 1831.

During the War of 1812 Delaware did her duty to the Union. The whole State was aroused by the outrages

committed by England, and meetings were held all over the State supporting the attitude of the government. The British fleets in the bay kept the people of Delaware ever on the watch, and some towns suffered from British raids. Money and soldiers were freely raised for defense.

**Revised Constitution of 1831.** — Some time before 1831 the people felt that a change should be made in the judiciary system of the State. At the election in October, 1830, the people voted to revise the old constitution, and the new convention completed its work December 2, 1831. Delaware was governed under this new constitution until 1897.

Delaware took an active part in the Civil War, and although she had large slave interests in the lower counties, the people on the whole were loyal to the Union and sent a liberal share of soldiers to the Union armies. Sentiment, however, was divided, and many young Delawareans went south and joined the Confederate Army.

**Proposed Constitutions.** — In 1851 an attempt was made to form a new constitution. A new constitution was duly made by a convention, but it was rejected by the people in 1853. In 1882 changes were again proposed but were not adopted.

**Constitution of 1897.** — The constitutions of Delaware thus far had all been Federal, that is, their provisions were pervaded with the idea that too much power must not be given to the people. It was felt that a change was necessary; so a constitutional convention was called, which completed its work on June 4, 1897. The constitution of 1897 is the one now in force. The succeeding chapters will explain the government of Delaware under this constitution and the statute law made by the General Assembly in accordance with it.

## SUPPLEMENTARY QUESTIONS

1. Discuss the manners and customs of the Indians who lived in Delaware.
2. Give the story explaining how Delaware was separated from Pennsylvania.
3. What part did Delaware take in the American Revolution ?
4. What important event took place at Cooch's bridge in the Revolution ?
5. Discuss the British ravages along the shore of Delaware bay during the Revolution.
6. Tell about Cæsar Rodney's ride.
7. What part did Delaware take in the War of 1812 ?
8. What was Delaware's attitude on the slavery question ?
9. What part did Delaware take in the Civil War ?
10. What part did Delaware take in the Spanish-American War ?
11. What public questions are now before the people of Delaware ?

## CHAPTER II

### THE REPRESENTATIVE DISTRICT AS A LOCAL UNIT OF GOVERNMENT

UP to the formation of the constitution of 1897 each county in Delaware was divided, for the purpose of local administration and government, and for the assessing and collecting of taxes, into districts known as "hundreds." Up to 1824 Maryland counties also were divided into hundreds. Delaware was for a long time the only State in which this division, the hundred, still remained the unit of local administration. In the New England States the unit of local government is the "town"; in Tennessee, the "civil district," and in most of the other States, the "township."

By the constitution of 1897, Delaware was divided into thirty-five Representative districts, of which fifteen are in New Castle county, ten in Kent county, and ten in Sussex county. In New Castle county, Wilmington hundred was divided into five Representative districts, and each of the other ten hundreds was made a Representative district; hence in this county the boundary lines of the old hundred now mark the limits of the Representative district. In Kent and Sussex counties less heed was given to the old hundred lines, and while in some cases a hundred may be a Representative district, in more cases a Representative district comprises part of one, two, or three of the old hundreds.

For real purposes of government the hundred no longer exists ; its place has been taken by the Representative district. Instead of saying that each county has so many hundreds, we say now that it has so many Representative districts.

The limits of the Representative districts are carefully outlined in Article II, Section 2, of the constitution. In New Castle county the five Representative districts in Wilmington are numbered from one to five ; the ten rural districts, from six to fifteen. In Kent and in Sussex county the districts are numbered from one to ten. Although the hundred was really abolished by the constitution, not in so many words, but through the new division into Representative districts, yet the name is one so familiar and so woven into our law that it will be many years before men will cease to speak of the hundred.

**Origin of the Hundred.** — Men in all times have organized themselves in some way for the purpose of government. Even in the earliest times we learn that the family was the unit ; a number of families, usually related by blood, formed a clan ; and a number of clans bound together by some common tie formed a tribe.

The Roman people for the purpose of government were divided into clans, curies, and tribes. The curia for military purposes was called a century, for it was supposed to be able to provide one hundred armed men to serve in the army in time of need. Our ancestors who wandered in the forests of Germany and Britain had a similar form of government. Among them grew up a local division of the land, the people living in which were supposed to be able to send one hundred men to war in case of need. Each hundred had its officers, was the unit in the raising of taxes, and had its own courts. The need for the hundred soon died out ;

it was at its height about the tenth century, and in the thirteenth was in its decline. The county and the township began to take for themselves the powers of the hundred, and at the time the English came to America it had ceased to be of any importance except as a local division.

It seems strange, therefore, that the English settlers in Delaware and Maryland should have revived the hundred; but it served as the unit of government from almost the earliest days of our State's history down to 1897. The county has now been given most of the powers enjoyed by the old hundred.

**Officers of the Representative District.** — The Representative district is now little more than a division. Its officers are few, and most of them are appointed either by the Levy Court Commissioners, by the Courts, or by the Governor :

Supervisor of Roads (New Castle county),  
Overseers of Roads (Kent and Sussex counties),  
Fence Viewers,  
Assessor,  
Tax Collector,  
Constable,  
Justice of the Peace.

**Supervisor of Roads.** — The Levy Court appoints in each rural district in New Castle county a Supervisor of Roads for a term of one year at a compensation fixed by the Court. It is his duty to make in his district the repairs ordered by the Levy Court, all such repairs being made under the supervision of the County Engineer.

**Overseers of Roads.** — The Levy Court in Kent and in Sussex county appoints for every district in each county a number of Overseers of Roads for a term of one year at a compensation fixed by the Court. In Kent county the

number of Overseers in a district varies from seven to twenty-six; in Sussex county it varies from six to twelve. The Levy Court of each of these counties decides how much shall be spent on the roads in each district, and the Overseers make the repairs, usually under the direction of the Levy Court Commissioner of the district.

**Fence Viewers.** — The Court of General Sessions appoints each year a number of men in each district to serve as Fence Viewers. There are ten Fence Viewers in each district in New Castle county; in Kent and in Sussex county the number in a district varies from three to five.

Their duty is to decide questions relating to boundary fences. If there is any dispute as to whether a fence is on the true boundary line of the properties or whether it is properly constructed, any three of the Viewers may be called upon by the disputing parties to settle the question. More than three may be called out, but at least three are necessary to give a decision. The person asking for the Viewers must pay their fees — usually \$1 each for each day they serve. The Fence Viewers are seldom called out.

**Assessor.** — Each district chooses its Assessor on general election day. He is chosen for a term of two years, and is paid by fees fixed by the Levy Court of the county, except in Wilmington, where each of the five Assessors is elected for a term of four years at a salary of \$800 per year.

It is the duty of the Assessor to make, every four years, a "general assessment" of the value of all property, personal and real, and a list of the polls, as may be required by law. He goes over the whole district, makes a list of the taxable persons, and assesses their personal and real estate at what he considers a fair sum.

In the years between general assessments he assesses

only persons who have moved into the district since the last assessment, and such buildings and improvements to property as have been made in this time. He strikes off his list the persons who have moved out of the district. These assessments are known as "scrap assessments."

The Assessor usually begins to make the general assessment in October. After he has completed his assessment he puts the names of the persons assessed and the sum for which they are assessed in books or on lists which he posts in public places. All persons may examine these lists to learn what they have been assessed. After such lists have been open to the public he gives notice in the papers, and by posters in public places, that on certain days the Board of Revision of Assessments will meet to hear appeals. The Levy Court of each county, in December of every year, appoints two competent persons in each Representative district of the county, who, with the Assessor, form the Board of Revision of Assessments for that district. The first meeting of these Boards in New Castle and Sussex counties takes place on the last Tuesday in January; in Kent county, on the first Tuesday in March. After the appeals have been heard by these Boards in every district, the Assessor sends the revised lists to the Levy Court of his county. The Levy Court then gives public notice that on certain days it will sit to hear further appeals. From the decision of the Levy Court, there is no appeal. After the Levy Court Commissioners have revised the list for the last time, they turn it over to the Clerk of the Peace of the county, who has his clerks make out the tax duplicate for each district. The "tax duplicate" is a list of the names of the taxable persons and of their tax for the year.

The assessments of the other three years are made in



the same way, and appeals can be made as in the general assessment.

**Tax Collector.** — A Tax Collector is appointed for each district (except in Wilmington) by the Levy Court of the county for a term of two years. He is paid by commissions on the amount of tax collected. He must furnish bond each year for at least the amount of the duplicate.

It is the duty of the Tax Collector to collect the road, county, and poor taxes, and the school tax when requested. After collecting the tax, the Collector turns it over to the County Treasurer.

**Constable.** — Each district has at least one Constable appointed by the Levy Court for a term of one year. He is paid by fees. He must give bond, for sums of money often pass through his hands; for example, when he collects a debt.

The duties of the Constable are varied. His chief duty is to serve all writs issued by the Justice of the Peace. These may be writs for civil or for criminal cases. Any warrant placed in his hands by the Justice must be served by him on the proper person if it is in his power to do so.

The number of Constables for a district is fixed by law. Some of the Constables, by act of the Assembly, are appointed by the Governor. The Governor has the power to appoint special Constables for private companies and for railroad companies. Such special Constables must be paid by the company or corporation for which they are appointed. The commissions of special Constables for private companies may be revoked at any time; the commissions of special Constables for railroad companies are for two years, but may be revoked sooner by the Governor.

**Justice of the Peace.** — Each district has at least one Justice of the Peace and may have more as the law may

provide. The Justice is appointed by the Governor for a term of four years; his appointment must be confirmed by the Senate. After such appointment and confirmation he receives from the Governor a commission allowing him to exercise the duties of a Justice. The Justice is paid by fees. Every Justice of the Peace is also a Notary Public.

The Justice is not really a district officer; he is a State officer whose jurisdiction extends over his county, but he is resident in the district. He may, in one aspect, be regarded as the judicial officer of the district. He holds a miniature court of his own and acts as its judge. When trying a case he may call witnesses. Whenever a criminal offense has been committed he may, at the request of a complainant, issue a warrant for the arrest of the accused. This warrant he gives to the Constable. In granting warrants the Justice satisfies himself that there is sufficient cause for the arrest of the accused person. The Constable arrests the person accused, and the Justice gives him a hearing and takes such action as the law may provide.

The jurisdiction and power of the Justice are discussed in the chapter on the Delaware Courts.

The miniature court of the Justice is a necessity of our time. In unimportant cases justice can be secured there more rapidly than through the county courts. Also, the disposition of the lesser civil and criminal cases in the Justices' courts leaves the county courts free to spend their time on the more important cases. Were it not for this, our county courts would have more work than they could do.

### SUPPLEMENTARY QUESTIONS

1. In what Representative district do you live?
2. Who are the various district officers of your district?

3. If as a citizen you believed your property assessed too high, how would you try to have the assessment reduced?
4. Give an instance in which the Fence Viewers may be called out.
5. If you are not satisfied with the roads, to whom should you make complaint?
6. Why should all citizens be willing to pay their taxes?
7. For what purposes is the tax money used?
8. Are our taxes high or low compared with those exacted from the citizens of foreign countries?
9. Give a case in which it would be the duty of the Constable to act.

## CHAPTER III

### THE GOVERNMENT OF INCORPORATED TOWNS

IN towns and cities certain improvements to roads and streets, public utilities, superior advantages for comfort and safety, become necessary. New streets must be opened at times, pavements must be laid, sewerage and drainage systems must be built, water and light must be supplied, ordinances for the safety and protection of the citizens must be made. These functions are out of the province of the Representative district, and it is evident that when a town grows to such a size as to need the improvements mentioned above, it should have the power to exercise a certain amount of local self-government.

The General Assembly grants such power to towns of sufficient population by passing an act of incorporation. Most of the towns of any size in Delaware are now incorporated. Wilmington is the most important municipality in the State; its government is discussed in the following chapter.

Each town has its own charter or act of incorporation, and while no two of these acts are the same, the general plans of town government are similar. The act under which a town is governed states the limits of the town, the important officers, how they are to be chosen, what compensation they shall receive, their terms of office; it also states how much tax may be raised by the town, what shall be the plan used in opening new streets and alleys: in fact,

all the powers of the town are laid down in its act of incorporation.

Our discussion of town government must be general, as the number of officers, their terms and compensation, vary in the different towns.

**Elections.** — The town officers elected by the people are chosen at a town election. The time, place, and manner of holding this election are stated in the act incorporating the town. In some towns the right to vote at the town election is limited to males, twenty-one years of age or over, who have paid the town tax; in others no distinction of sex is made, the requirement being the payment of town tax.

**Officers.** — In general the town has the following officers :

Mayor or President of Council,  
Town Council or Town Commissioners,  
Board of Health,  
Treasurer,  
Clerk,  
Alderman,  
Assessor,  
Tax Collector,  
Constable.

**The Mayor or President of Council.** — In some towns, especially the larger ones, the qualified voters choose a Mayor; in others, the Town Council or the Town Commissioners choose one of their number as the President of their body, with substantially the same powers as a Mayor.

It is his duty to preside over the meetings of the Council or the Commissioners; as the executive head of the town he must see that their acts are executed; he hears complaints from citizens and reports them to the Council or the Commissioners at their next meeting. He issues the

licenses which the act of incorporation authorizes him to grant.

The Mayor of New Castle has the power to hold a kind of "police court" in which are brought the persons who have violated town ordinances.

**Town Council or Town Commissioners.** — The legislative part of the town government in some towns is a Town Council; in others, it consists of Town Commissioners.

This body has the power to make ordinances for the government of the town. These ordinances are usually regulations to preserve order, safety, and cleanliness within the town limits.

It has the power to open new streets and alleys and must keep old streets in repair. Many towns receive according to their act of incorporation an annual appropriation from the Levy Court of their county to spend on the streets of the town.

It has the power to lay and collect every year a tax not exceeding the sum named in the charter; this tax is known as the town tax and is used in keeping the streets in repair and in meeting the expenses of the town. Many towns, according to their charter, also have the power to lay a dog tax.

If the town owns its water works and electric light plant, these utilities are usually in charge of the Council or the Town Commissioners.

It has the power under the charter to appoint certain officers.

**Board of Health.** — In every incorporated town the Council or the Commissioners appoint a Board of Health, of not less than three and not more than seven members. One of the members must be a physician.

It is the duty of the Board of Health to secure sani-

tary conditions for the town. It has the power to order the removal of decaying animal or vegetable matter, the repair of drains and cesspools, the removal of anything offensive or dangerous to health.

When a contagious or infectious disease arises in the town, the Board must take effective measures to stop its spread.

**Treasurer.** — In some towns the Treasurer is elected by the Council or the Commissioners; in others, he is elected by the voters. He receives all money due the town, and pays out such sums as are authorized by the Council or the Commissioners.

**Clerk.** — In some towns the Clerk is elected by the Council; in others he is elected by the voters. It is his duty to keep an exact and true record of all the acts of the Council or the Commissioners.

In certain towns one man is both Treasurer and Clerk.

**Alderman.** — In a few towns the Alderman is elected by the Council; in others he is elected by the voters. He may or may not be the Justice of the Peace for the State resident in the town.

It is his duty to hear the charges brought against any one for violating a town ordinance. He may, within certain limits, inflict fines, sentence to imprisonment, or both. In some towns the authorities have provided a "lockup" for the detention of arrested persons. In some the act of incorporation allows the Alderman to commit persons to the county prison; in such case the town must pay to the county a stipulated sum for each day the prisoner is confined in the county jail.

**Assessor.** — The Town Assessor is elected either by the voters of the town or by the Council or the Town Commissioners.

His duty is to make, at such times as the act of incorporation requires, an assessment of the real and personal property within the town limits and of all taxable persons not owning any property. This assessment is for town purposes only. The Assessor gives the completed lists to the Council or the Commissioners, who at stated times hear the appeals of citizens for changes in their assessments.

**The Tax Collector** is usually appointed by the Council or the Commissioners. He collects the town tax and the dog tax. If the town owns its water works and electric light or gas plant, he usually collects the revenue arising from these utilities.

The Tax Collector and the Treasurer are each compelled to give bond for a sum usually double the amount that may be collected. In some towns the same man is both Treasurer and Tax Collector.

**Constable.** — The Council or the Commissioners usually appoint a Constable or Constables to preserve peace and order in the town and to arrest persons who violate the law or the town ordinances. In some cases the county Constable resident in the town is chosen as town Constable. In some towns the Constables are called policemen.

**Résumé.** — It will be observed that every incorporated town has a complete system of local government. The Mayor or the President of the Council or the Commissioners is the head of the executive branch; the Council or the Commissioners possess the legislative functions; the Alderman, the judicial functions.

It must be remembered that for other than local town matters, the town is a part of the Representative district and of the county in which it is situated.



## SUPPLEMENTARY QUESTIONS

1. Procure a copy of the volume of the Laws of Delaware which contains the charter of your town, and read the charter or act of incorporation carefully.
2. Find out who the officers of the town are, how they are chosen, what their compensation is.
3. Are the town officers men worthy of their position? If not, why not?
4. When is the town election held in your town? Where? Who may vote?
5. Why should all good citizens vote at the town election?
6. Name some condition or place in the town that needs the attention of the Board of Health.
7. If you wish to make a pavement in front of your house, how will you proceed to get the proper lines, grading, etc.?
8. What action of importance have the Town Council or the Town Commissioners taken recently?
9. What steps do you think might be taken to make the town a better place to live in?
10. What public questions are before the people of the town?
11. How much town tax is raised in your town each year? For what purpose is the money spent?



## CHAPTER IV

### WILMINGTON CITY GOVERNMENT

It has been shown in the preceding chapter how the incorporated towns of the State are governed. It is evident that as the population of a city increases, the needs of the people become more numerous and the government becomes more complex. The opening and repairing of streets, the building of sewers and drains, the providing of means for rapid transit, the establishing of schools, the care of the public health and safety, the providing of public utilities such as light and water, and many other functions — all these devolve in some way upon the city.

The rights which a city enjoys and the powers of city government vested in it are guaranteed to it in a charter. The city of Wilmington is governed under a charter granted by the General Assembly in 1883; amendments have been made at every session since then. This charter as amended states clearly the limits of the city and defines the powers of the city boards and officers.

The government of the city is exercised through three branches: the legislative, the executive, and the judicial.

#### THE LEGISLATIVE BRANCH

##### The City Council

**How Composed.** — The City Council is composed of a President of the Council and twelve other members. The President is chosen by the voters of the entire city, and

each of the twelve wards of the city elects a Councilman. These officers are chosen for a term of two years.

**Meetings.** — The Council holds its regular meetings once a week in the Council Chamber in the City Hall. Seven members constitute a quorum. The Mayor may call special meetings when necessary; a special meeting may also be called at the request of five members. The sessions of Council must be open to the public.

**Duties and Powers.** — To enumerate specifically all the powers of the City Council would require much space. The three most important powers of the Council are: to make ordinances for the government of the city, to borrow money for the use of the city, and to choose certain city officers. In exercising these and other powers it is guided by the city charter.

The laws made by the Council are called ordinances. If a bill receives the vote of a majority of all the members, it is sent to the Mayor; if he signs it, it becomes a city ordinance. If the Mayor does not approve a bill, he returns it to the Council with his objections. These objections are placed on the journal, and if after the reconsideration of the bill, two thirds of the members vote for it, it becomes an ordinance. If a bill which has been passed by the Council and presented to the Mayor is not returned within ten days (Sundays excepted) after it was presented to him, it becomes an ordinance in like manner as if it had been signed by him. Franchises to public service corporations, such as street railway, lighting and power, and telephone companies, must be passed in the same way as an ordinance.

“The Council, by ordinance, may borrow money . . . to an amount, inclusive of the present bonded debt, not exceeding in the aggregate ten per centum of the assessed

value of the real estate of the city." The Council may in any one year borrow a sum not exceeding \$50,000 by an ordinance passed by a two-thirds vote of all the members and signed by the Mayor; or if vetoed by the Mayor and re-passed by a three-fourths vote of all the members. Whenever the sum to be borrowed in a year exceeds \$50,000, the ordinance authorizing the loan is not effective until it has been approved by a majority vote of all the qualified voters of the city at the subsequent city or special election. The General Assembly also may pass bills authorizing the city to borrow money.

The City Council has the power to choose certain city officers; it may also confirm or reject the appointments to office made by the Mayor.

The City Council fixes the tax rate annually for city and school purposes. It pays certain city bills and must make an annual appropriation to the various city departments.

**City Clerk and Clerk of Council.** — This officer is chosen by the Council for a term of two years. It is his duty to keep the journal of the Council, in which he records all official acts of the Mayor and of the Council. He performs such other duties as the Council may by ordinance place upon him.

**Bailiff.** — The Bailiff of Council is chosen by the Council for a term of one year. He acts as the messenger of the Council, keeps the Council Chamber in order, and is custodian of the City Hall, except of such parts as are occupied by the Municipal Court and the Police.

### THE EXECUTIVE BRANCH

**The Mayor** is the chief executive officer of the city; he is the head of the city government. He is elected by the qualified voters of the city for a term of two years.

The Mayor's chief duty is to see that the ordinances of the City Council are faithfully executed. He exercises a general supervision over the work of the various departments and officers of the city. He appoints certain city officials, subject to the confirmation of the Council. The Mayor's duties in connection with the Council form a large part of his work. The Mayor also has the powers of a Notary Public, and within the city he is authorized to solemnize marriages.

In order that the Mayor may be able to enforce the laws and ordinances relating to the city and in order that he may secure such information as he desires concerning the city, he may make an investigation into the condition of an office or department. Such books and papers as he desires during the inquiry must be delivered to him, and the witnesses whom he summons must appear and testify.

**The City Treasurer** is elected by the qualified voters of the city for a term of two years. He appoints a clerk known as the City Treasurer's Clerk, who holds office during the pleasure of the Treasurer.

All moneys due the city come into the hands of the City Treasurer, and must be deposited by him, in the name of "The Mayor and the Council of Wilmington," in some incorporated banking institution or institutions named by the Council. The city and school taxes, the income of the various city departments, in fact, all moneys due the city, are paid to him.

Money is drawn from the city funds only on an order signed by the President and Clerk of Council and countersigned by the City Auditor and City Treasurer. The Treasurer at stated intervals must furnish the Council with itemized lists of all moneys received and paid out since his last statement.

**The City Auditor** is appointed by the Mayor for a term of two years. The Auditor appoints a clerk known as the City Auditor's Clerk, who holds office during the Auditor's pleasure.

The duties of the City Auditor are varied. He audits at stated intervals the accounts of the city departments and officers, and certifies to their correctness. He examines all bills against the city and indorses them as correct before they are presented to the Council for payment. He examines and countersigns all drafts or orders upon the City Treasurer before they can be paid; he may, if he thinks proper under the law, refuse to sign a bill, draft, or order, in which case the Council may either sustain or overrule his action.

**The City Solicitor** is appointed by the Mayor for a term of two years. The City Solicitor appoints an Assistant City Solicitor, who holds office during the City Solicitor's pleasure.

The City Solicitor is the legal adviser of all the officers and departments of the city. He is the prosecuting officer of the city in the Municipal Court, and acts as counsel for the city in the other courts. He also possesses the power to call witnesses and to require the production of books and papers, for the purpose of securing information relating to his duties as prosecuting officer of the Municipal Court, and for the detection of violations of any laws or ordinances affecting or concerning the city.

### **The Executive Board**

The Mayor, and the Presidents of the following boards, constitute the Executive Board: Street and Sewer Commissioners, Water Commissioners, Police Commissioners, Park Commissioners, Board of Education, and Board of

Health. The Board meets at least once a month in the Mayor's office, and the Mayor may call special sessions when necessary.

The meetings of the Board are devoted to the consideration of the interests of the city and of its various officers and departments. It may act in an advisory capacity to the departments, but its action is not binding on a department or officer in this advisory capacity. If a dispute or difference arises between or among any of the departments of the city, or among the officers of any department, and is not amicably settled within ten days, it must be referred to the Executive Board, whose decision is final and binding.

The members of the Board are, *ex officio*, members of the Council, with the right to take part in its discussions ; but in no case do they have the right to vote on a matter before the Council.

### Street and Sewer Department

The Street and Sewer Department is under the charge and direct supervision of three Directors or Commissioners appointed by the Mayor for a term of six years ; at no time may all three of these be from the same political party. The members choose one of their number as President of the Board.

**Powers and Duties.** — The streets and sewers of the city are under the care of this department. The Board has the power to widen or extend old streets, to open new streets, to lay new sewers, and grant permission to property owners to make sewer connections. It has supervision, also, over the cleaning and sprinkling of the streets and also provides adequate lighting for the streets and squares. In short, the department has direct control



of all matters pertaining to the streets and sewers of the city, exercising its authority under the charter of the city and the ordinances of the Council.

All moneys received by the department are paid to the City Treasurer. The Council must make an annual appropriation of at least \$100,000 for the use of this department.

**Officers.** — The Board of Directors of the Street and Sewer Department chooses the officers of the department. The principal officers are the Secretary and Assistant Secretary, Street Commissioner, Collector, Engineer and Assistant Engineer in Charge of Sewers, two Rodmen, four Supervisors, Stenographer, and Storekeeper. The officer known as Inspector of Plumbing and Gas Inspector is chosen by the Commissioners for a term of three years, and he must be a practical plumber of at least five years' experience. He keeps a register of all the licensed plumbers in the city and grants licenses to responsible plumbers. All plans for plumbing and draining in buildings must be submitted to him; if he approves the plans, the work may be done, and he must inspect it within twenty-four hours after it is completed. The ordinances of the city provide rules and regulations governing plumbing and draining. As Gas Inspector he enforces the ordinances of Council governing and regulating gas pipe fitting. He must also make a daily test of the gas as to candle power, and, at the request of a consumer, must test the consumer's meter.

### Water Department

The Water Department is under the direct control and supervision of the Board of Water Commissioners. This Board has three members appointed by the Mayor for a term of six years; at no time may more than two be from

the same political party. One of the Commissioners is chosen by the Board as its President.

**Duties and Powers.** — This Board has control of all matters relating to the water supply of the city and the management and direction of the water works. It has charge of and supervision over the water mains, stop cocks, hydrants, and other fixtures pertaining to the distribution of water through the city.

The Board also has charge of the collection of the water rents due the department.

**Officers.** — The Board has the power to employ and discharge its own officers. The most important executive officer of the department is the Chief Engineer, who has charge of the water works and exercises general supervision over the officers and men connected with them. The department has three other engineers — the Assistant to the Chief Engineer, an Assistant Engineer, and an Assistant Engineer of Construction. The Bacteriologist has a well-equipped laboratory in which he makes analyses of the city water at frequent intervals to determine its condition as to the presence of bacteria, and such other tests as are necessary for the preservation of the health of the city and the conservation of its manufacturing interests. The Registrar issues the permits to use the city water and receives all money due the department; he is aided by the Assistant Registrar. The other officers of the Water Department are clerks, meter inspectors, special inspectors, and the engineers at the City Mill and Cool Spring stations.

**Revenue.** — The consumers of the city water must pay what is known as a water rent; the schedule of rents is fixed by ordinance of the Council. The water rents and other revenues of the department are paid by the Regis-

trar to the City Treasurer. The expenses of the department are met each year by an appropriation of the Council, which must be not less than \$120,000.

### Department of Public Health

The Board of Health is composed of the Port Physician, two other physicians, a practical plumber, and a business man, all appointed by the Mayor for a term of two years; the Chief Engineer of the Department of Engineering and Surveying is also, *ex officio*, a member of the Board. Three members constitute a quorum. The Board chooses a President and a Treasurer from its members.

**Powers and Duties.** — The Board of Health has charge of and supervision over all matters pertaining to the public health. It may abate nuisances existing in the city or within one mile of its limits. In cases of contagious and infectious diseases it may take proper precautionary measures to prevent their spread. In general, the Board exercises such powers as are granted to Boards of Health by the laws of the State and by the ordinances of the city.

This Board also makes all contracts for the collection of the garbage and offal of the city, and has full control and management of the City Crematory.

The Council makes an annual appropriation of not less than \$1000 for the use of the Board.

**Officers.** — The Board of Health elects its Secretary and Assistant Secretary and four executive officers. The Secretary of the Board keeps a record of its proceedings and also acts as its chief executive officer. The four executive officers under the direction of the Secretary enforce the rules and regulations of the Board.

**Registrar of Vital Statistics.** — The Secretary of the Board of Health is also the Registrar of Vital Statistics.

It is his duty to keep separate lists of all births, deaths, and marriages in the city.

It is the duty of the parents of a child, or of such person as the Council may designate, to furnish the Registrar, within ten days after the birth of the child, with such information as the Registrar may require.

It is the duty of every clergyman or magistrate performing a marriage ceremony in the city to fill out a blank giving the required information and file it with the Registrar within five days after performing the ceremony.

It is the duty of every physician who attends a deceased person during a last illness to furnish the Registrar with a certificate showing the cause of death and to give such other information as he may require. In case there was no attending physician, the householder in whose family the death occurred must furnish the certificate; if the Coroner holds an inquest over the body of the deceased, he must furnish the certificate. After the Registrar has received the certificate, he issues a permit allowing the removal and burial of the body. Without such a permit a body cannot lawfully be buried. If the body of a deceased person is to be taken out of the city, the undertaker or other person, before removing the body, must obtain a permit from the Registrar. Persons neglecting to obey these regulations are subject to a fine.

**The Inspector of Meats** is elected by the Council for a term of two years. It is his duty to inspect at any place within the city, all cattle, swine, sheep, or other animals used for food, to prevent the slaughter of diseased animals, to prevent the sale or use for food of diseased, tainted, or unwholesome meats, to cause the same when found to be destroyed, and to cause the arrest and trial of persons exposing or offering the same for sale.

**The Inspector of Milk** is chosen by the Council for a term of two years. It is his duty to inspect all the milk sold in the city. He also inspects the herds producing the milk. He must cause the arrest and trial of persons offering for sale milk which does not meet his tests.

**Vaccine Physicians.** — The Council elects annually four vaccine physicians for the city. The city is divided for this purpose into four districts, and any citizen of Wilmington may apply for vaccination to the physician of the district in which he resides.

### **Department of Engineering and Surveying**

The Department of Engineering and Surveying has supervision and direction of all surveys and regulations ordered by acts of the General Assembly and by ordinances of the Council. The laying out of new streets, the furnishing of building lines to those who are erecting new structures, and the general engineering and surveying work of the city — all these functions fall to this department.

**Officers.** — The chief officer of this department is the Chief Engineer; the other officers are the First and Second Assistant Engineers, and the Clerk of the Registry Bureau. The officers are elected by the Council for a term of three years.

**Registry Bureau.** — The Clerk of the Registry Bureau has charge of this Bureau under the supervision of the Chief Engineer. It is the duty of the Registry Bureau to keep a register in which are entered plans of the city and a description of every property in the city. Whenever a property changes hands, the transfer must be noted in the register. These registration books must be kept up to date continually, and every buyer or seller of real estate located in the city must notify the Bureau of the

transfer and give an exact description of the property. The Bureau once a month furnishes the Assessors and Collectors with a list of all property transfers registered.

### Police Department

The Police Department of the city is under the direct control of the Board of Police Commissioners, which is composed of three Commissioners appointed for a term of six years by the Associate Judge of the Superior Court resident in New Castle county. The Board chooses its own President, and may fill vacancies in the Board for an unexpired term. At no time may all three Commissioners be from the same political party.

**Duty and Powers.** — It is the duty of this Board to preserve the public peace within the city, prevent crime, arrest offenders, protect the rights of persons and property, guard the public health, preserve order at primary meetings and elections, at all public meetings and conventions, and on all public occasions, prevent and remove nuisances in all public streets and highways, provide proper police force at every fire for the protection of the firemen and property, and enforce the laws of the State and the laws and ordinances, rules and regulations, of the city. The Board has entire control also over the fire alarm and police telegraph system of the city. The Superintendent of Police and Fire Alarm Telegraph, appointed by the Board, has direct charge of this system.

**The Police Force.** — The Board of Police Commissioners carries out its important function through a police force. The entire force numbers about ninety men. The police headquarters are at City Hall, where are also a number of cells for the detention of prisoners. The chief officer of the police force is the Chief of Police. There are two

Captains of Police, various subordinate officers, and about sixty-five patrolmen or police officers. All these officers are chosen by the Board.

The Council must make an annual appropriation of not less than \$90,000 for the use of this department.

### Department of Public Parks

The parks of the city are under the control of the Board of Park Commissioners, composed of ten Commissioners appointed for a term of five years by the Associate Judge of the Superior Court resident in New Castle county; the Mayor, President of Council, Chairman of the Finance Committee of the Council, and the Chief Engineer of the Surveying Department are also, *ex officio*, members of the Board.

The Board chooses a President from among its members, and also a Treasurer, who may or may not be a member. The Board also elects an Engineer and Superintendent of Parks.

**The City Parks.**—A system of parks is necessary for every city. Not only do they make a city more attractive, but they also furnish cool spots where the people may find rest and recreation. Wilmington is noted for its beautiful parks.

#### *Main Park System*

	ACRES
North Brandywine Park . . . . .	101.01
South Brandywine Park . . . . .	73.22
Kentmere Parkway and Rockford Grove . . . . .	14.83
Rockford Park . . . . .	71.37

#### *Small Parks*

	ACRES
Kirkwood Park, Eleventh and Kirkwood Streets . . . . .	5.16
Delamore Park, Broom and Maple Streets . . . . .	5.34
Eden Park, New Castle Avenue and F Street . . . . .	7.35

*The following small parks and open places are not under the control of the Park Commissioners :*

	ACRES
Cool Spring Park, Tenth and Jackson Streets . . . .	7.50
Rodney Park, Eighth and Clayton Streets . . . .	1.66
Franklin Park, Eighth and Broom Streets . . . .	2.89
Garfield Place, Delaware Ave. and Washington Street .	.12
Kennett Place, Pennsylvania Ave. and Franklin Street .	.12
Shipley Place, Twelfth and Market Streets . . . .	.17
Soldiers' Monument, Delaware Ave. and Broom Street . .	.09

**Powers and Duties of the Board.** — It is the duty of the Board of Park Commissioners to keep the parks under its control in good order, to appoint the necessary park guards and keepers, and to expend in such manner as it may think proper the annual appropriation of the Council. The Board has also adopted a number of rules and regulations applying to the parks.

Public bath houses, the Delamore and the Brandywine, have been established by the Board. The Wilmington Free Zoölogical Association has established a "Zoo" at North Brandywine Park.

### Department of Education

The public schools of the city are under the control and supervision of the Board of Education. This Board has thirteen members; each of the twelve wards of the city elects a member of the Board, and the President of the Board is elected by the city at large. Women may be members of the Board. Only taxpayers are allowed to vote; but women, as well as men, who have paid tax are qualified to vote at the school election.

The members of the Board are chosen for a term of four years. A school election is held once every two years: at one election the members from the even-numbered wards



are chosen; at the next election the members from the odd-numbered wards are chosen. The Board elects a Secretary, who is not a member of the Board.

**Organization of the Schools.** — The chief executive officer of the schools is the City Superintendent, appointed by the Board. He has the immediate supervision of the schools, examines and licenses applicants for teachers' certificates, and performs such other functions as fall to a Superintendent of Schools. He is aided by an Assistant Superintendent. The Board also chooses a Supervisor of School Property, who looks after the condition of the school buildings.

There are separate schools for the white and the colored pupils. At the head of the schools for the white pupils is the Wilmington High School. At the head of the colored schools is the Howard High School. The Board also supports a Training School in which young women are prepared to teach in the city schools.

All the officers and teachers are chosen by the Board, which also decides what the salaries shall be.

**Income of the Schools.** — The City Council makes an annual appropriation of not less than \$180,000 for the use of the Board of Education. The city also receives a large share of the State School Fund.

**Wilmington Free Library.** — A law of the General Assembly provides that the Mayor, President of Council, Chairman of the Finance Committee, President of the Board of Education, Chairman of the Committee on Teachers of the Board of Education, and the Superintendent of Schools shall be members of the Board of Managers of the Wilmington Free Library. The Council makes an annual appropriation for the use of the library, not exceeding 1 cent per month for each inhabitant of

the city. The library also receives other support. The Board of Managers chooses the Librarian and his assistants.

### Fire Department

The Fire Department of the city is composed of eleven Fire Companies. Each company is chartered by the General Assembly and has its own home in the city, in which are provided quarters for the members and for the apparatus of the company.

**Officers.**—The Department is under the control of the Fire Committee of the City Council. The executive officers of the Department are the Chief Engineer, First Assistant Engineer, and Second Assistant Engineer. These officers are chosen by the firemen from the various companies in the Department for a term of two years.

Each company chooses its own officers, the most important of which are the President and the Engineer. During a fire or whenever the companies are in service, the Chief Engineer and his two Assistants are in command.

**Support.**—The City Council appropriates to each company every year a sum sufficient to keep the apparatus in repair and to pay the current expenses. The members of the companies are not paid, the service being on a volunteer basis.

### Department of Elections

The Department of Elections is composed of five Election Commissioners appointed by the Governor for a term of six years. All elections in the city are conducted under the supervision of these Commissioners.

**The Elections** held in the city are the "general election" held biennially on the first Tuesday after the first Monday of November, the "city election" held biennially on the first Saturday in June, the "school election" held bi-

ennially in certain wards on the second Saturday in June, and such special elections as may be called under the law.

At the general election the people vote for State officers and the Representative of the State in Congress. At the city election are chosen the elective city officers. At the school election are chosen the members of the Board of Education.

**Election Districts.** — The city is divided by the constitution into five Representative districts. These five districts have been divided into a certain number of voting districts for the convenience of the voters and to secure a rapid count of the votes.

**Election Officers.** — The Department of Elections appoints one Registrar and two associates for every voting district in the city. Their term is two years. They also serve as Inspector and Judges of Election at the elections held during their term. The registration for the general and the city election is conducted by these officers. Registration is not necessary for a school election, the presentation of the tax receipt being sufficient; thus at this election women taxpayers may vote.

The Department chooses a Clerk to the Department of Elections, who keeps an official record of all their acts.

### Other Boards

**The Board of Port Wardens** is composed of five Wardens chosen by the Council for a term of five years from nominations made by the Board of Trade. The Board of Port Wardens chooses one of its members as Master Warden.

The wharves, docks, and harbor of the city and the waters within certain limits are under the direct control and supervision of the Board. The Council annually chooses

a Harbor Master, who is nominated by the Board of Port Wardens. The Harbor Master serves as the executive officer of the Board and sees that all the laws of the State and all the ordinances of the Council pertaining to the wharves and docks, and all the rules and regulations of the Board of Port Wardens, are carefully executed.

**Commissioners of the Sinking Fund.** — The Sinking Fund is a fund established for the city by an act of the General Assembly to provide for the payment of city bonds as they become due. Three Commissioners, elected by the Council for a term of three years, have charge of this fund and of all bonds issued for the city under the Sinking Fund Act.

**The Board of Barber Examiners** is composed of three reputable barbers of the city, appointed by the Governor for a term of three years. It is the duty of this Board to adopt reasonable rules and regulations prescribing sanitary requirements for barber shops; these rules are subject to revision by the Board of Health. It is their duty also to meet at least three times a year to examine those who wish to practice the barber's trade in the city, and to furnish certificates to those barbers who have legally registered.

### **The Assessment and Collection of the Taxes**

**The Taxes.** — The expenses of the city government are heavy. The salaries of the city officials, the expenditures of the various departments, the interest on the bonded debt of the city, all these demand that there shall be a certain and sufficient source of revenue. To meet its internal expenses, the city therefore levies and collects a city and school tax. As the city is a part of the county, the county levies and collects a county tax in the city.

**Assessment of Real Estate.** — The taxes in the city are

levied on real estate ; therefore, the property owners pay all the taxes.

For the purpose of assessing and collecting the taxes, the city is divided into two districts. The northern district comprises all that portion of the city north of Sixth Street ; the southern district comprises all that portion of the city south of Sixth Street. Each district elects an Assessor and Collector for a term of two years. He appoints one clerk to aid him.

It is the duty of each Assessor and Collector to make annually a fair and complete assessment of all the taxable property in his district. Real estate belonging to the United States, to the State, to the city, or to New Castle county is not taxed. Public schools and churches are exempted from taxation ; hospitals and benevolent institutions may, by act of the Assembly, be relieved from the payment of taxes. The completed assessment is turned over to the Board of Assessment, Revision, and Appeal.

**The Board of Assessment, Revision, and Appeal** has three members—the President of Council, the Chairman of the Finance Committee of the Council, and the Building Inspector (p. 53). This board has general supervision over the Assessors and Collectors of the city and must see that they make a faithful, fair, and complete assessment of all the taxable property in their respective districts. After the assessment list has been completed by the Assessor and given to the Board, it sits each day of the month of April (Sundays excepted), every year, at some convenient place in the city, or as many days as may be necessary in that month, from 2 P.M. to 4 P.M., and from 7 P.M. to 9 P.M., for the purpose of hearing the appeals of property owners for a change in their assessment. No appeals are received after the last day of April.

**How the Rate is Fixed.**—The City Council estimates each year what sum will be necessary for the city the coming year; it then subtracts from that sum what will be the estimated income, and the remainder represents the amount which has to be raised by city taxation. Knowing from the assessment list the entire value of the taxable property, the Council fixes the tax rate for the coming year. The tax duplicates are then made out and handed to the Assessors and Collectors, who, having given sufficient bond, proceed to collect the tax.

The county tax rate is fixed by the Levy Court of New Castle county. The county tax is paid directly to the Receiver of Taxes and County Treasurer of New Castle county at his office in the Court House.

**Franchise Taxes.**—The city is authorized by an act of the Assembly to collect annually from the telegraph, telephone, water, electric light, gas, street railway, and heat and power companies, operating in the city, a tax specified in the act.

### **The City Markets**

The City Council has named certain streets or parts of them on which public curbstone markets may be held. The curb on each side of these streets is laid off into 8-foot spaces. These spaces are rented to farmers, truckers, and other producers of farm products, fresh fruits, flowers, and fresh meats. The Council has prescribed by ordinance the place and time of holding the markets.

**The Clerk of the Market** is chosen by the Council for a term of two years. It is his duty to keep a record of all persons to whom he has rented space on the curb markets. He exercises a general supervision over the city markets and acts as the sealer of weights and measures, examining the weights and measures at least once every year.

### Other City Officers

**The Building Inspector** is chosen by the Council for a term of three years. It is his duty to number the buildings within the city, to inspect all buildings erected within the city, and to examine all buildings reported unsafe. Before any structure may be erected in the city, a permit must be obtained from the Inspector. The Council has made regulations to govern the erection of buildings, and it is the duty of the Inspector to enforce these.

**The Inspector of Oils and Fluids** is chosen by the Council, and it is his duty to inspect all oils or fluids made, sold, or offered for sale in the city, which the ordinances of the Council require to be inspected.

The city government includes also a few officers not mentioned in this chapter, but their duties, as a rule, are unimportant.

### THE JUDICIAL BRANCH

#### Municipal Court

The large population of the city, the many offenses against city ordinances, and the preserving of the peace make necessary a local court for the city. The General Assembly has therefore established and defined the jurisdiction of the Municipal Court for the city of Wilmington.

**How Composed.**—The organization of the Municipal Court includes the following officers :

Judge of the Municipal Court,  
Deputy City Judge of the Municipal Court,  
Clerk of the Municipal Court,  
City Solicitor,  
Policemen.

The Judge of the Municipal Court is appointed by the Governor for a term of twelve years. The Deputy City

Judge is appointed by the Associate Judge of the Superior Court resident in New Castle county for a term of four years. The Clerk of the Court is appointed by the Judge and holds office during the pleasure of the Judge.

**Sessions.** — The sessions of the Municipal Court are held daily at 9 A.M., except Sundays, in the court room in City Hall.

**Jurisdiction.** — The Municipal Court has jurisdiction over all cases which involve the violation of city ordinances. The Judge may hold the accused or allow him to give bail as the law may provide, if the case does not come under his jurisdiction. The Judge of this court is also vested with the powers of a Justice of the Peace and of a Notary Public.

**Manner of Trial.** — All prosecutions in the Municipal Court are made "on information," that is, without indictment by a grand jury. There are no juries in this court. The City Solicitor and his assistant act as the prosecuting officers of the city.

**Appeal.** — In certain cases appeals may be made from the Municipal Court to the Court of General Sessions of New Castle county. In certain other cases the decision of the court is subject to review by the Superior Court for New Castle county.

### SUPPLEMENTARY QUESTIONS

1. Who are the various city officers at the present time?
2. Who are the members of the various Boards?
3. What types of men are holding office in the city now?
4. How may a city secure good government?
5. What city organizations are there with public-spirited aims?
6. Explain the aims of the Society for the Prevention of Cruelty to Animals; of the Board of Trade.

*Note to the Teacher.* — To fix the city government well, take certain public matters pertaining to the city and then have the pupils tell what officer or what department must deal with the subjects in question.



## CHAPTER V

### COUNTY GOVERNMENT

BEFORE the constitution of 1897 the hundred was an important unit of local administration. Now the hundreds have been merged into the Representative districts, and the old powers of the hundred are largely vested in the county, so that the county is the true unit of local government.

**The Three Counties.** — Delaware is divided into three counties, New Castle, Kent, and Sussex, — names which we at once recognize as English. Each county has its own county seat, where are situated the county courthouse and the offices of the various county officers. The county seat of New Castle is Wilmington; of Kent county, Dover; of Sussex county, Georgetown.

In the county are vested certain powers of government, such as the assessing of various taxes for county use, the repairing of roads and bridges, the granting and recording of certain legal documents, the preserving of the peace, and the care of the poor. To carry out these powers each county has its own machinery of government; the plan of county government, though differing in some details, is much the same in the three counties.

#### *County Boards:*

Levy Court,  
Trustees of the Poor,  
County School Commission,  
Trustees of the Workhouse (New Castle county),  
Jail Commissioners (Kent and Sussex counties).

*County Offices:*

Clerk of the Peace,  
Prothonotary,  
Register in Chancery and Clerk of Orphans' Court,  
Recorder of Deeds,  
Register of Wills,  
Controller (New Castle county),  
Receiver of Taxes and County Treasurer (New Castle county),  
County Treasurer (Kent and Sussex counties),  
Treasurer of the Poor (Kent county),  
Sheriff,  
Coroner,  
County Superintendent of Schools,  
Sealer of Weights and Measures,  
State Highway Commissioner (New Castle county),  
County Supervisor (New Castle county),  
County Engineer (New Castle county).

**The Levy Court**

The Levy Court is in many respects the most important executive board of the county. Originally the chief duty of the Levy Court was to meet once a year and determine the tax rate for that year, from which duty it received its name. From time to time this board has been granted new powers by the General Assembly, and now its powers and duties are varied and important.

**How Composed.** — The Levy Court of New Castle county is composed of seven Commissioners chosen for a term of four years at the general election. Each member receives \$1200 per year. The Levy Court in each of the two lower counties is made up of ten Commissioners chosen at the general election for a term of four years, at a salary

of \$300 per year. In New Castle county the Senatorial districts are also Levy Court districts; in Kent and Sussex counties the Representative districts and Levy Court districts are identical. Each Levy Court district chooses a Commissioner.

A Levy Court Commissioner must be a resident and property owner in the district from which he is chosen. A Commissioner forfeits his office if he ceases to be a resident or property owner in his district. A Commissioner may not, as long as he is in office, be also a Coroner, Sheriff, County Treasurer, Trustee of the Poor, or Collector of county or State tax; the duties of any of these offices might conflict with his duty as a Commissioner.

**Meetings.** — The Levy Court of New Castle county meets almost every week at the county seat, Wilmington. The Levy Court of Kent county holds its regular meetings the first Tuesday of each month at Dover. The Levy Court of Sussex county holds its regular meetings the first Tuesday of January, February, March, April, May, October, November, December. A majority of the members constitute a quorum, and special meetings may be called when necessary.

**Duties.** — The chief duty of the Levy Court is to supervise the assessing of property and to levy the taxes. The Assessor in each Representative district, after completing the assessment of personal and real property and the list of those subject to a head tax, hands over these lists to the Levy Court of his county. These lists are examined by the Levy Court each year, and it has the power of adding to or striking from the lists such names as it may think proper. It may also change any assessments which in its opinion are either too high or too low. On the first Tuesday of March the Levy Court sits as a

Court of Appeal and hears all persons who are not satisfied with their assessment. On such appeals they may take such action as they think proper. They may sit as a Court of Appeal as many days in March as they think necessary to hear all the appeals.

After the last day of March the assessment lists are complete. The Levy Court Commissioners now know just what sum may be taxed the coming year. They compute the sum which must be spent on the roads in the various districts the coming year, and then decide how much the road tax rate shall be to raise this sum. They compute the sum necessary to support and aid the poor the coming year, and then decide what the poor tax rate shall be. The sum necessary to meet the other expenses of the county for the coming year is computed, and then they fix the county tax rate to meet these expenses. These rates must be uniform throughout the county.

The Clerk of the Peace, as the clerk of the Levy Court, then makes out the tax duplicate for each district in the county. The Levy Court appoints a Tax Collector in each district, and requires him to give bond; he then receives the tax duplicate for his district, and a warrant authorizing him to collect the taxes named in the duplicate. The tax duplicate shows the assessment of each person in the district, and the amount of county, road, and poor tax each must pay for that year. At the March meeting of the following year the Levy Court and the Tax Collectors make their settlement.

The Levy Court appoints annually in March the Constables for each district of the county for one year. It also appoints Trustees of the Poor (p. 59) in each county; and in Kent and Sussex counties it appoints Jail Commis-

sioners (p. 61) and appropriates a sum sufficient to maintain the jail.

Whenever insane persons are confined in the prisons, the Levy Court has the power to remove them from the prison to the almshouse or to the State asylum for the insane, where they may be cared for.

All bills of the county must be approved and passed by the Levy Court before they can be paid. This is to insure the wise expenditure of the county money.

The Levy Court has charge of all the public works of the county, such as the erection and repair of buildings, the building of bridges, roads, etc. It appoints annually "bridge tenders" to keep watch over the bridges.

It is the duty of the Levy Court to keep in order the roads of its county. (See pp. 73-76.)

The Levy Court may appropriate out of the county money such sums as the law may provide to institutions for the unfortunate, the poor, the sick, and the criminal or defective.

The Levy Court must publish annually in December in pamphlet form a record of the expenditures of the county.

### Other County Boards

**Trustees of the Poor.** — Each county has a board known as the Trustees of the Poor, whose duty is to have supervision of the county almshouse and to give aid to poor people not in the almshouse.

The Trustees are appointed by the Levy Court. The term in Kent county is two years; in New Castle and Sussex counties, three years.

In New Castle county there are fourteen Trustees. They receive \$3 a day for twelve meetings a year, and their mileage. They meet on the last Wednesday of each

month. The Receiver of Taxes and County Treasurer is also the treasurer for the Trustees of the Poor. The county almshouse is situated at Farnhurst.

In Kent county there are ten Trustees of the Poor, one from each Representative district. They receive \$2 a day for twelve meetings a year, and their mileage. The county almshouse is situated near Dover. The Trustees elect one of their members as Treasurer of the Poor to serve for one year. He has charge of all the moneys for the care of the poor in Kent county. He receives the same salary as the other Trustees, and 2 per cent on his disbursements.

In Sussex county there are ten Trustees of the Poor, one from each Representative district. They receive \$1 per day for the meetings they attend, and their mileage. The County Treasurer of Sussex county is the treasurer of the Trustees. The county almshouse is situated near Georgetown.

The Trustees of the Poor in each county receive from the money raised as poor tax sufficient to support the inmates of the almshouse. The farms connected with the almshouse are a source of revenue. At their discretion the Trustees may receive homeless or poor persons into the almshouse, and they also have the power to grant aid to other needy persons in their county not in the almshouse.

**County School Commission.** — The nature and duty of this board are treated in the chapter on Education, p. 215.

**Trustees of Workhouse.** — It is necessary that each county shall have some place in which to confine such persons as have transgressed the law and have been condemned to a term of imprisonment by the courts. In New Castle county, persons sentenced to confinement are placed in the New Castle County Workhouse at Greenbank. This prison is a model institution. It was built at a considerable cost

according to the best plans for prison architecture. Prisoners are each day assigned to some task in the large workrooms, where garments are manufactured under contract. A large quarry on the grounds is operated with convict labor. A farm is connected with the workhouse, the work on which is done by convicts.

The workhouse is under the control of a Board of Trustees composed of five members. They are chosen for a term of five years by the Judges residing in New Castle county. The Trustees receive no compensation for their services except mileage. They choose a Warden, who is in actual charge of the workhouse, a Deputy Warden, clerk, guards, and such other officers as may be necessary.

The Levy Court pays to the Trustees 40 cents per day for each prisoner confined from New Castle county. The farm furnishes some of the supplies necessary for the workhouse. The quarry and the labor of the prisoners are a source of considerable revenue.

By an act of the General Assembly in 1905 persons sentenced to imprisonment in Kent and Sussex counties may by order of the courts be confined in the New Castle County Workhouse. Prisoners sentenced for terms of some length are sent to the workhouse, and the Levy Court of the county from which they are committed must pay to the Trustees 40 cents per day for each prisoner so committed. As soon as the Trustees have paid off the bonded indebtedness of the workhouse this sum of 40 cents per day must be reduced to such a sum as will actually cover the cost of maintaining a prisoner. The Trustees make an annual report to the Levy Court of New Castle county.

**Jail Commissioners.**—Kent county supports a county jail at Dover; Sussex county has a county jail at George-

town. Each jail is under the supervision of three Jail Commissioners, appointed by the Levy Court of their county for a term of one year. They receive a small sum annually, sufficient to pay the expense of attending the meetings of the board.

The jail is under the direct charge of the Sheriff of the county. The prisoners are fed and clothed by him, and the Levy Court decides annually how much he shall receive per day for each prisoner in his charge.

### Clerk of the Peace

The Clerk of the Peace is one of the most important executive officers of each county. He is elected for a term of four years on general election day by the voters of the county. In New Castle county this officer receives a salary of \$4000 per year and 10 per cent of the fees of his office; and appoints one deputy and three clerks to aid him in the duties of the office. In each of the two lower counties the Clerk of the Peace receives a salary of \$1800 per year and 33 per cent of all fees, and appoints one deputy.

**Duties.** — The duties of the Clerk of the Peace are many and varied. Only the most important can be here enumerated.

He is the clerk of the Levy Court and as such must keep all its books and papers and keep careful minutes of its proceedings. A copy of the minutes and proceedings of the Levy Court is sent once a year to the State Auditor at Dover. The Clerk of the Peace also prepares the revised assessment lists and tax duplicates for the Levy Court. His duties in connection with the Levy Court form the largest part of his work.

He is the clerk of the Court of General Sessions (p. 185),



and of the Court of Oyer and Terminer (p. 184). He informs the State Treasurer or State Auditor, as the law provides, what fines and forfeitures have been inflicted by these courts. At the direction of the Court of General Sessions he issues warrants to the Fence Viewers in each district allowing them to exercise the duties of their office.

One of his important duties is to issue many State and all county licenses. The majority of business and professional men, manufacturers, keepers of places of public entertainment or amusement, must secure licenses from the county or State. Such licenses are granted by the Clerk of the Peace. In connection with the Court of General Sessions of his county he issues licenses to hotels and drinking places, and to wholesale dealers in liquor. He issues all marriage licenses in his county, and must designate no less than six Justices of the Peace in his county who shall have the right to distribute marriage licenses. Each year he must publish a list of all the licenses he has issued during the year.

Every two months he must certify to the State Treasurer the fees he has received, and must make settlement for the amount still due. He must deposit to the credit of the State Treasurer or County Treasurer, as the case may be, all money he receives as fees within seven days of its receipt, and must send to those officers the certificates of deposit.

Nominations for public office must be certified to him within a certain time preceding the election, and he must keep a record of them. It is his duty to prepare from these nominations the ballot for the general election. He publishes the ballot in several newspapers of the county preceding the election.

He draws the warrants for money to be paid out on bills approved by the Levy Court.

### Prothonotary

A Prothonotary is chosen on general election day for a term of four years by the voters of each county. In New Castle county he receives a salary of \$3600 per year and 10 per cent of the fees of his office, and appoints one deputy. In each of the lower counties he receives a salary of \$1500 per year and 10 per cent of the fees of the office, and appoints one deputy.

**Duties.** — The Prothonotary is the clerk of the Superior Court of his county (p. 179). In this capacity his duties are many and varied. He may issue process, take recognizances of bail, and enter judgments according to law and the customs of the court. He has the power to sign and affix the seal of the Superior Court to all writs and process of that court, to enter judgments at the request of plaintiffs upon the confession of defendants, to sign all judgments, to take the acknowledgment of the satisfaction of judgments entered on the records of the court, to administer oaths and affirmations, and to take bail in civil cases pending trial in the Superior Court.

He takes the "declarations of intention" of those who intend to become citizens of the United States, and prepares and attests petitions for admission to such citizenship.

He keeps the election returns and election boxes delivered to him the day after the general election by the inspectors of elections in the various voting districts of his county, and must deliver them the second day after the election to the Superior Court, so that it may determine the result of the election throughout the county.

### Register in Chancery and Clerk of Orphans' Court

A Register in Chancery and Clerk of the Orphans' Court is chosen on general election day by the voters of

each county for a term of four years. In New Castle county this officer receives \$1500 as Register in Chancery and \$1500 as Clerk of the Orphans' Court; he also receives 10 per cent of the fees of his office, and he appoints one deputy. In each of the other two counties he receives \$500 as Register in Chancery and \$500 as Clerk of the Orphans' Court; he also receives 10 per cent of the fees of his office, and he appoints one deputy.

**Duties.** — As Register in Chancery this officer is the clerk of the Court of Chancery. As Clerk of the Orphans' Court he keeps a record of the acts of the Orphans' Court. His duties as clerk of these courts are numerous; for a description of the courts, see pp. 183, 186.

### Recorder of Deeds

A Recorder of Deeds is chosen on general election day by the voters of each county for a term of four years. In New Castle county this officer receives a salary of \$3600 per year and 10 per cent of the fees of his office, and he appoints one deputy and four clerks. In Kent county and in Sussex county the Recorder of Deeds receives a salary of \$1500 per year and 10 per cent of the fees of his office, and he appoints one deputy.

**Duties.** — It is the duty of the Recorder of Deeds to make in the record books of his office a faithful copy of all deeds brought to him. All deeds to be valid must be thus recorded.

He must record all mortgages, assignments, releases, agreements, and certificates of incorporation executed in his county.

He must record all the private acts of the General Assembly, that is, acts relating to private companies and banking concerns, etc., in his county.

These records are open for inspection to the members of the bar free of any charge, but other persons must pay a fee if they wish to examine them. They are carefully preserved in the County Building, as they are of much importance to courts of law and to private individuals.

### Register of Wills

A Register of Wills is chosen on general election day by the voters of each county for a term of four years. The Register of Wills of New Castle county receives a salary of \$3600 per year and 10 per cent of all fees of his office, and appoints one deputy and one clerk. The Register of Wills of Kent county and the Register of Wills of Sussex county each receive a salary of \$1500 and 10 per cent of the fees of the office, and appoint one deputy.

**Duties.** — Although the Register of Wills is chosen as a county officer he is also the judge of what is known as the Register's or Probate Court. He is the sole judge of this court and tries cases in his office and gives a decision without a jury.

As his title signifies, his chief duty is in connection with the wills and estates of deceased persons. When a person dies and leaves a will, such will must be taken before the Register of the county and proved to be the last and true will of the deceased person. If the Register is satisfied as to the authenticity of the will, he grants to the person or persons or trust company named in the will the right to settle the estate according to the provisions of the will. If a person dies without leaving a will, the heirs apply to the Register to have him appoint some one to settle the estate according to the provisions of the law relating to the estates of those who die without a will. In either case the Register grants to the executor or administrator

“letters” empowering him to make legal settlement of the estate.

All wills proved before the Register are carefully copied by him into the records of his office.

If the persons interested in an estate are not satisfied with the decision of the Register in proving a will, or with the executor or administrator who has been empowered to settle the estate, they may appeal from his decision to the Superior Court of the county. The decision of the Superior Court is final.

Every executor or administrator must file an account of the settlement of the estate with the Register, who examines such report to determine if the executor or administrator has done his duty. Within three months of such settlement with the Register the executor or administrator must inform the heirs or their guardians that his account is open for inspection at the Register's office. Should the heirs or their guardians be dissatisfied with the settlement of the estate, they may appeal to the Orphans' Court of the county, by which the account must be examined and settled according to the law.

### Controller

New Castle county is the only county that has a Controller. This officer is chosen every four years on general election day by the voters of New Castle county. His salary is \$2500 per year, and he appoints one deputy. He is bonded for \$10,000, to insure the faithful performance of his duties.

**Duties.** — It is the duty of the Controller to audit the accounts of all the county officers except those of the Receiver of Taxes and County Treasurer. At the intervals prescribed by law he examines carefully into the correct-

ness of the accounts of the various county officers and verifies the items. This is a most important duty, as it is a check to any attempt at fraud or dishonesty. He also audits the accounts of the district tax collectors, the books of the county hospital or almshouse, of the workhouse, and of the Levy Court.

County bills must be approved by him before the warrants may be paid by the Treasurer, and all warrants for the withdrawal of money from the regular county funds must have his signature.

All contracts which the county has entered into are placed in his hands for safe keeping.

### **Receiver of Taxes and County Treasurer**

New Castle county is the only county that has an officer by this name. He is chosen at the general election by the voters of New Castle county for a term of four years. He receives a salary of \$4000 per year. He appoints one deputy and one clerk. He must give bond for \$50,000.

**Duties.** — This officer has in his charge all the county money. To him are paid all the revenues of the county, such as county, poor, and road tax, county license fees, etc.

The Levy Court gives him, on or before the first day of July of each year, duplicates of the taxes to be collected in the districts. On receipt of these he has the receipt books for various districts printed, and transmits them to the district collectors. The district collectors hand over to him all the money collected by them as county, poor, and road tax.

He collects at his office the county part of the city of Wilmington tax.

He pays out money from the county treasury on receipt of proper warrants. The interest on the bonded indebted-

ness of the county he pays at his will when it falls due. He pays all court expenses on warrants drawn by the Clerk of the Peace which have been properly approved. All checks or warrants for the withdrawal of money from the funds in his charge must have his signature.

His accounts are audited each year by a committee appointed by the resident Associate Judge of New Castle county.

### **County Treasurer**

Kent and Sussex counties each have a County Treasurer, chosen for a term of two years on general election day by the voters of the county. In Kent county his salary is \$800; in Sussex county it is \$900.

**Duties.** — The County Treasurer is the custodian of the county money. In Sussex county the County Treasurer is also Treasurer of the Poor.

He receives the taxes from the district collectors and keeps an account with each collector. He receives all the other revenues of the county. All money received by him must be deposited in bank within seven days of its receipt.

He must pay all witnesses and juries on the presentation of properly certified warrants. He pays out money for county expenses on warrants properly drawn, approved, and certified.

Every year he makes a settlement of his accounts with the State Auditor.

### **Treasurer of the Poor**

This office exists only in Kent county (see p. 60).

### **Sheriff**

The Sheriff is chosen in each county on general election day for a term of two years. In New Castle county the

Sheriff receives \$3600 per year and 10 per cent of the fees of his office, and appoints three deputies. In Kent county the Sheriff receives \$2000 per year and 10 per cent of all fees of the office, and appoints one deputy. In Sussex county the Sheriff receives \$2000 per year and 10 per cent of all fees, and appoints one deputy.

**Duties.** — The Sheriff is the chief executive peace officer of the county, and is particularly the servant of the courts.

He notifies the Chief Justice of all persons who have been committed to prison for capital crimes or manslaughter. He notifies the Court of Oyer and Terminer of all persons who have been committed for capital offenses; he notifies the Court of General Sessions of all persons committed for other crimes.

He attends the sessions of the courts in his county so as to carry out their commands. As the servant of the courts he has many duties which, though important, are too numerous to enumerate.

In Kent and Sussex counties the Sheriff has charge of the jail and of the prisoners confined in it. It is his duty to see that the prisoners are properly fed and cared for, and to take the proper precautions to prevent their escape.

If a person is condemned to death in Kent or Sussex county, the Sheriff of the county executes the sentence of the court. The warden of the workhouse conducts the executions in New Castle county.

The Sheriff conducts all sales of property ordered by the courts or proper officers, but he is debarred by law from buying anything at these sales.

When the public safety requires it, he may swear in additional deputies.

Before the general election he delivers to the inspec-



tors of election in the various voting districts the ballot boxes, poll lists, and the other papers required by law.

### Coroner

A Coroner is chosen on general election day by the voters of each county for a term of two years. In New Castle county he receives a salary of \$1200 and 10 per cent of the fees of his office, and appoints one deputy. The Coroner of Kent county receives \$1000 per year and 10 per cent of the fees of his office; and the Coroner of Sussex county receives \$600 per year and 10 per cent of the fees of his office.

**Duties.** — In cases of death under the following conditions, the Coroner must hold what is called an inquest over the body:

1. If the person dies in prison.
2. If the person is slain.
3. If the person dies an unnatural death (except when executed by law).
4. If the person commits suicide.
5. If the person dies under suspicious circumstances.

The purpose of the inquest is to discover the cause of the death of such a person. The Coroner is notified when his services are needed, and with the aid of a jury he holds the inquest. In New Castle county the Coroner's jury consists of not more than nine nor less than six men; in Kent and Sussex counties the jury consists of not less than twelve nor more than twenty-three men. The Coroner chooses responsible men to serve on such a jury, and each juror is under oath to perform his duty faithfully.

The Coroner has the power to call witnesses to testify at an inquest, and may compel persons to attend. He has the right to make all inquiry necessary to discover the

cause of the death. If the dead person's body has been buried, the Coroner has the right to disinter it. After thorough examination and inquiry the jury renders a verdict as to the cause of the death. If it is found that any individual was directly or indirectly the cause of the death, the Coroner must arrest him or have him arrested, unless the jury's verdict is that the slayer acted in self-defense or accidentally. Persons arrested by the Coroner as the result of an inquest may be admitted to bail by him if the offense is a bailable one.

The Coroner must deliver to the Attorney General the papers, records of examinations of witnesses, verdict of jury, etc., of all inquests held by him.

If the office of Sheriff becomes vacant, the Coroner performs the duties of that office and has the same powers as if he had been regularly elected Sheriff.

### **County Superintendent of Schools**

The duties of this officer are discussed in the chapter on Education, pp. 216, 217.

### **Sealer of Weights and Measures**

Each county has a Sealer of Weights and Measures, appointed by the Governor for a term of four years. He receives a salary of \$175 per year and fees in New Castle county; \$125 a year and fees in Kent county; and \$150 a year and fees in Sussex county.

**Duties.** — It is the duty of the Sealer of Weights and Measures to test the scales, weights, and measures in use in his county by those who buy from or sell to the people. All weights and measures in use must correspond with the standard weights and measures in his possession. After he has examined weights and measures and finds them correct, he stamps them with his official stamp.

## The Building and Repairing of Roads

The needs of our times demand that the roads in each county be kept in the best possible condition. The manner of building and repairing roads in New Castle county is so different from that in Kent and Sussex counties as to require a separate discussion.

### *In New Castle County*

**The Levy Court** has charge of the roads. It decides what new roads are to be built and what repairs are to be made throughout the county. It decides each year how much shall be spent for new roads; if it decides to spend \$10,000 or more for new roads in one year, it receives \$10,000 additional from the State that year to aid in their construction. Should the Levy Court decide to spend less than \$10,000 on new roads, it receives nothing from the State.

The Levy Court decides each year what repairs shall be made to old roads in the various districts. Knowing what sum is required for new roads and repairs, it fixes the road tax rate for that year. The tax rate must be uniform throughout the county. For building the roads and keeping them in repair it has a regular organization, including the State Highway Commissioner, the County Supervisor, the County Engineer, and the district Supervisors.

**The State Highway Commissioner** is appointed by the Governor for a term of four years. He receives a salary of \$1000 a year.

It is his duty to study the various methods of building new roads and to acquaint himself with the approved methods of road construction. Whenever the Levy Court decides to build a new road, the Highway Commissioner prepares the plans for the road and has charge of its con-

struction. He may appoint a supervisor to have actual charge of the construction of the road at a salary of \$3 a day. This supervisor is in office only until the road is completed. After the completion of the new road the Highway Commissioner turns it over to the Levy Court. He makes a biennial report to the General Assembly.

**The County Supervisor** is appointed by the Levy Court for a term of four years. His salary is fixed by the Levy Court.

After a new road built by the Highway Commissioner has been turned over to the Levy Court, it is the duty of the County Supervisor to keep such road in repair. He acts under the direction of the Levy Court.

**The County Engineer** is appointed by the Levy Court for a term of four years. His salary is \$2500 a year. He may at any time be removed from office by the Levy Court for cause. He appoints his own clerk.

The County Engineer is in direct charge of all roads of the county except those which have been built by the Highway Commissioner. It is his duty in the month of April each year to report to the Levy Court what repairs he has made to roads, bridges, and causeways during the past year, and at the same time he recommends what repairs should be made the coming year. The Levy Court considers this report, uses it in determining the tax rate for road purposes, and then authorizes the County Engineer to make such repairs as it may think proper. These repairs he proceeds to make through the Supervisors in the various districts. The Supervisors are directly responsible to the County Engineer, and he must approve all their bills before they go to the Levy Court.

**Supervisors.** — The Levy Court appoints in each district one Supervisor for a term of one year at a compensation

fixed by the Court. It is the duty of the Supervisor to make under the direction of the County Engineer such repairs as he may order. The Supervisor may make no repairs without orders from the Engineer except in cases where the repairs must be made at once, as after a storm.

*In Kent and Sussex Counties*

**The Levy Court.** — The roads in Kent and Sussex counties are under the direct supervision of the Levy Court. The Levy Court Commissioner from each district goes over the roads of his district carefully and notes what repairs should be made. From these reports the Levy Court decides how much shall be spent on the roads the coming year, and then fixes the tax rate. This rate must be uniform throughout the county. This money is then apportioned among the various districts in the county by the Levy Court, and is at the disposal of the district for the repair of the roads.

The Levy Court appoints in each district a number of "Overseers of Roads" for a term of one year at a compensation fixed by the Court. The number of Overseers varies in the different districts. It is the duty of these Overseers to make the repairs to the roads of their districts, usually at the direction of the Levy Court Commissioner of the district.

Whenever a district in either Kent or Sussex county wishes to raise more money for its roads than the county road tax rate will provide, it notifies the Levy Court, through its Levy Court Commissioner, of the desired additional tax. Such additional tax is collected at the same time and in the same way as the regular county road tax in that district. Whatever sum a district raises by such special tax entitles it to receive an equal sum from

the State, provided that the sum which any one district so receives from the State shall not be over \$1000 any one year. A district raising a special tax of \$400 would therefore receive \$400 from the State; one raising \$1500 by special tax would receive only \$1000 from the State.

In all three counties the Levy Court may grant a citizen the right to improve a road at his own expense. Special acts of the General Assembly are often passed to meet certain conditions or to improve a particular road or roads.

### SUPPLEMENTARY QUESTIONS

1. Who are the county officers in your county?
2. In case you sold a piece of land or a house, how should you record the deed and why should you record the deed?
3. If a county bridge is destroyed by fire or otherwise, who would build a new one?
4. If a road is to be repaired, show how and by whom it would be done.

The State Government:	The Legislative Department.	{ Preamble and Bill of Rights. The House of Representatives. The Senate. How a Bill becomes a Law. Powers and Limitations of the General Assembly.
	The Executive Department.	{ The Governor and Lieutenant Governor. Other Executive Officers. State Boards and Institutions. Revenue and Taxation. Education.
	The Judicial Department.	{ The Courts. Impeachment and Treason.
	How our Elective Officers are chosen.	

## CHAPTER VI

### THE PREAMBLE AND BILL OF RIGHTS

**Preamble.** — Our constitution opens with a preamble in which are set forth certain ideas which are fundamental in our State government. It states clearly that the aim of the provisions of the constitution is to further the happiness and welfare of a free people, and that all power lies in the people, such power being their birthright as citizens of this State and nation. It further guarantees to the people the right to alter the constitution whenever they think their welfare and the continuance of their happiness and safety may require such changes.

**Bill of Rights.** — The Bill of Rights comprises the entire first article of the constitution. It is an enumeration of the specific rights of the citizens of this State. The rights and privileges mentioned in the nineteen sections are those which the makers of the constitution believed necessary for the happiness, security, and prosperity of the people of the State. They are rights to be cherished and guarded, to be exercised at all times by an individual with due respect for the rights and privileges of others. As a people we may feel proud of these rights and may think ourselves most fortunate to be able to live in a State and country where such rights are guaranteed to the citizens. These rights enumerated below were secured for the people of Europe and America by years of strife and battle. Each one has a history, and now through this

constitution they are guaranteed to the people of the State. In one sense the people of each American commonwealth may regard themselves as the heirs of the centuries of political and religious strife. In order that these rights may not be violated in any way the Bill of Rights closes with the clear statement that the General Assembly may make no laws impairing or diminishing these privileges.

**Section 1.**—It is one of the fundamental principles of our government that Church and State shall be separate institutions. The General Assembly may pass laws to further the interests of religion in general, but it may not establish a State religion. In England the State church is the Church of England; in Russia, the Greek Catholic Church. In Delaware all religious denominations stand equal before the law. All religions are tolerated so long as they do not teach doctrines against the law. In no way may there legally be discrimination in favor of any religion.

It is the duty of all men to gather together at certain times for public worship; for it is through divine goodness that we enjoy the happiness of a free people. No man, however, may be compelled to attend any form of public worship, nor may he be compelled by law to support by money or otherwise any church or church institution. Such support and attendance must be voluntary. Every citizen may hold unmolested any religious opinions and may preach and carry into practice such opinions so long as he disobeys no laws and does not interfere with the rights of his fellow-men.

**Section 2.**—So far as the constitution is directly concerned no one on account of his religious views may be kept from holding an office under the State. No religious test whatever is required as a qualification for public



office. The citizens who vote for a public officer know his character and his beliefs and should base their vote on such knowledge. It would be a great injustice to require men to hold certain religious opinions as a qualification for office.

**Section 3.** — “All elections shall be free and equal.” This is generally interpreted to mean that no price shall be demanded for the right to vote itself, that the elections shall be open to all who possess the requisite legal qualifications, and that one vote shall count as much as any other, irrespective of who may cast it.

**Section 4.** — Every individual has the right to have his cause tried by a jury. It is one of the basic ideas of our government that no one shall be deprived of life, liberty, or property until a jury of his fellow-citizens shall find that he has by his conduct forfeited them. This is one of the most precious rights of a people; for in more than one country to-day men are deprived of life, liberty, and property at the command of one man, their sovereign or king. Every cause in Delaware must be tried by due process of law.

**Section 5.** — No man who speaks, writes, or prints the truth without malice may be interfered with. The right of the free expression of individual opinion is one of the safeguards of republican government; if an officer is false to his trust, if a corporation encroaches on the rights of the people, they may be criticised by individuals and by the press and may be called to account for their actions. On the other hand it is necessary that neither individuals nor the press shall make statements which are not true and which work injury, without being compelled to account for them. Were such slander or libel allowed, a man's reputation would not be safe from the attacks of malicious

persons. If an individual or a newspaper makes a statement which injures a person or a corporation, the injured party may compel such individual or newspaper to prove the truth of such statement in the courts. If such statements cannot be proved true, the party or parties who made them are guilty of slander or of libel and may be punished by the courts.

In certain despotic countries all books and newspapers must be passed on by a government censor before they are published and he may suppress any news or books he may wish to keep from the people ; in such countries it is not uncommon for men to be imprisoned for a mere criticism of the government or to be deported to some inhospitable country to work without pay in the mines.

**Section 6.** — A search warrant is a document issued by an authorized magistrate allowing a public officer to search a man's person, property, or papers. No such warrants may be granted unless the articles to be searched for are carefully described, and the application for the warrant is supported by oath or affirmation. No man may be arrested and deprived of his liberty without just and sufficient cause. This section prevents searches that are unwarranted by circumstances and prevents arrests except when there is clear information against a man, supported by the oath and affirmation of the accuser. Of course, certain officers of the law, such as policemen and constables, have the privilege, under certain limitations, of arresting individuals whom they discover engaged in unlawful or suspicious actions.

**Section 7.** — Whenever a man is accused of a crime or some other unlawful action he has the right to speak in his own defense at the trial, and may have the services of a lawyer to plead his cause and to conduct his defense. In

very important criminal cases, if the accused is unable to employ a lawyer for himself, it is the duty of the court (the Judge) to assign one to conduct the defense. The accused person must be informed of the accusation against him so that he may have time to prepare his defense; and he has the right to be present at his trial and to hear and see all the witnesses against him. He has the right to bring into the court witnesses in his favor, and if any man whose testimony he believes would be favorable to his cause refuses to come into the court to testify, he may invoke the law and compel such person to testify. All accused persons have the right to demand a speedy and public trial so that they need not, if innocent, stay in prison or rest under the charge longer than absolutely necessary. During the trial the accused need not answer any questions which would incriminate him, nor can he be compelled to give any evidence against himself. No person can be imprisoned or deprived of his life, liberty, or property unless by the judgment of a jury or by the law of the State or nation.

**Section 8.** — Accused persons may be proceeded against in two ways: a grand jury may find a “true bill” against the accused, or the prosecuting officer may charge the accused with the crime in a written paper presented to the court. This latter method is called “proceeding by information.” The constitution states that no person shall for an indictable offense be proceeded against by information except in certain cases.

All important charges of a criminal nature against a man are presented to a grand jury, and if it finds the evidence sufficient it formally indicts him of the offense and issues a true bill. If the grand jury finds the evidence insufficient to hold the accused, the indictment is “ignored” and the man is not proceeded against in the courts.

In all cases arising in the land and naval forces, or in the militia when in actual service in time of war or public danger, persons may be proceeded against on information. During times of great public danger it is necessary that such criminal accusations be tried with all possible speed so that the interests of the whole people may be safeguarded. Election offenses in this State are prosecuted on information. Prosecutions in the Municipal Court of Wilmington are on information.

“No person shall be for the same offense twice put in jeopardy of life or limb.” This means that if a person has been accused of crime and tried for it in the courts and found not guilty, he can never be tried for the same crime again. After he has been acquitted, new evidence sufficient to convict him may be discovered, but he cannot be tried again. If a guilty man is not convicted, it is supposed not to be the fault of the law, but the lack of evidence sufficient to convict the accused. If the jury disagrees at the first trial, the accused may be tried again until he is found either guilty or innocent. If there was an error in the first trial, the lawyer for the defense may at the close of that trial endeavor to secure from the Supreme Court a “writ of error.” If the Supreme Court grants the writ of error, the case must be retried.

No private property may be taken or applied to public use without the consent of the owner or his representatives, and then only if due compensation is made. Whenever private property is taken for public use, and agreement cannot be reached as to what is a just price for such property, the court may appoint a committee, which usually consists of three persons, to decide what price shall be paid.

The General Assembly possesses the right of eminent

domain ; that is, it may take private property for public use, or it may grant by law to corporations, such as railroad companies, etc., the right to take private property for their use. Such companies are supposed to aid the common welfare, and private interest cannot stand in their way. Such right, however, is carefully defined by the acts of the Assembly so that corporations may not work injustice, and in all cases in which such corporations take private property, due compensation must be made to the owner. The State may by act of the General Assembly take private property for State purposes, but in all such cases due compensation must be given to the owner of the property.

**Section 9.** — The courts are open to all, and any person who feels that his reputation or his property has been injured, may carry such injury to the courts. All such cases must be tried as speedily as possible, so that the reputation and interests of the injured person may be protected. The trial of a case must not be made more expensive than is necessary for the sake of justice, so that the poor as well as the rich may have redress for the wrongs done them. Every case must be tried in the county in which it was commenced, as in most cases justice can be best administered in such county. When, however, public feeling is much aroused concerning a case, and a fair trial is thus impossible in that county, the judges of the court in which the case would be tried may at their discretion transfer the cause to the proper court in another county. In every way our constitution demands that justice be given to every man.

Whenever a citizen has a grievance against the State, he may bring suit against the State under such limitations as are provided in the statute law.

**Section 10.**—Conditions may arise under which it becomes necessary that a certain law be made inoperative for a time. In times of great public danger, during a war, or in a financial panic, it has been found well to suspend certain laws for the sake of the public safety or to relieve the immediate distress. When necessity arises, the General Assembly, and it alone, has the power to suspend the law.

**Sections 11 and 12.**—An individual arrested for an offense may by giving bail usually secure his freedom until the trial of the case. If the person is arrested for a crime punishable by death and there is positive proof of his guilt, or evidence that is almost sufficient to convict him, he may not give bail, but must remain in prison until his trial. This provision prevents persons who are guilty of offenses punishable by death from fleeing to places beyond the reach of the courts when out on bail. On being arrested for a crime, the accused is taken before a magistrate, who hears the charge against him. If the accused is committed and if the offense is a bailable one, the magistrate fixes the bail. In fixing the bail, the magistrate uses his own judgment, fixing it at a sum commensurate with the offense. A friend of the accused or any responsible person or surety company may give bail for the prisoner by pledging the required sum in money or real estate and by signing the bail bond. The accused person is then released until his trial takes place; but if he cannot secure the required bail, he is placed in prison until the trial of the offense. If a person who is out on bail does not appear at his trial, the person who gave bail for him forfeits the amount of the bail bond. No excessive bail may be required for an accused person, else the bail might be made so high by the magistrate as to preclude any efforts of the accused to secure his temporary freedom. The right of an individual

accused of crime to secure his temporary freedom by giving bail is a most important one, for it prevents persons who may be innocent of the charges against them from being placed in a prison.

Whenever a person is imprisoned for any offense, his friends and his counsel must be allowed to see him before his trial to give him comfort or to aid him in preparing his defense.

According to our laws, certain offenses are punishable by fines only, some by fine or imprisonment, others by both imprisonment and a fine. Section 11 states that no excessive fines shall be imposed. In determining the fine, the magistrate or judge is guided by the nature of the offense and by the regulations laid down in the common and statute law of the State.

The prisons of the State must be built in such a way as to provide reasonable comfort for the inmates. It would be inhuman to confine men in a prison where they might contract disease and impair their health. A prison is a place to keep men who have forfeited their liberty, and the confinement prevents them from inflicting further injury on the community; but it is not a place to inflict torture on the body. Some of the old prisons in America and Europe were buildings not really habitable, and they became breeding places of disease. Section 11 provides that no cruel punishments shall be inflicted on the prisoners. It was a common custom not many years ago in Europe to inflict all kinds of tortures on persons accused of crime in order to make them confess. The rack, the iron boot, thumbscrews, and other instruments of torture were no small part of the equipment of early European prisons. The whipping post is still used as a means of punishment in Delaware, but its use is regulated by the law.

**Section 13.** — A writ of “habeas corpus” is an order granted by a judge ordering a prisoner to be brought before the court. A person may be accused of a crime so serious and the evidence may be so strong that the committing magistrate may not allow him his liberty on bail. In such cases the counsel of the accused may ask the court to issue a writ of habeas corpus. This writ is always granted. The accused is brought into court, and the court proceeds to examine the evidence against him. If it finds the evidence insufficient to hold him, it frees him; if the evidence seems fairly strong, the court may allow him to give bail or may send him back to prison. In cases of capital crime, if the evidence is strong, the prisoner is again sent to prison. The writ of habeas corpus is also used to bring children into court so that the court may decide who has the right to them. It may be used also to bring into court persons confined in insane asylums, so that the court may decide if the person is really insane or if he is being wrongfully confined.

In short, the purpose of the writ of habeas corpus is to prevent people from being illegally deprived of their liberty. This is a very precious right of the people; it was first confirmed to the English people by King John in 1215 in the Magna Charta, the document which is the first source of so many rights enjoyed by English-speaking people to-day. The constitution guarantees to the citizens of Delaware the right to the writ of habeas corpus, but declares that this privilege may be suspended in time of rebellion or invasion or whenever the public safety may require it. During such times the public safety demands that persons suspected of crime or treason, even though the evidence may not be very strong in some cases, shall be imprisoned so that they cannot work any mischief. It



is possible that at such times persons may be wrongfully imprisoned, but the safety of the majority then justifies a possible injury to the few.

**Section 14.** — In the old days in England the king could issue to judges commissions of Oyer and Terminer and of Jail Delivery. A commission of Oyer and Terminer gave a judge the right to try, sentence, and have executed persons accused of crimes punishable by death. A commission of Jail Delivery gave the judge the right to go from place to place to try all persons confined in the jail, to release those not guilty, to return to prison those found guilty. These commissions worked much harm to the rights of the people, and real justice was often not given. To prevent such a condition arising among us, the constitution declares that no commission of Oyer and Terminer or Jail Delivery shall be issued. The method of calling the Court of Oyer and Terminer in our State is prescribed by the statute law.

**Section 15.** — Under the old English law, persons who were found guilty of certain high crimes were deemed unable to hold any property. What property they owned went into the treasury of the state or of the king. The children of the accused, as well as the accused, were supposed, under the law, to have their blood tainted by the crime, and they were not able to inherit property, their inherited property and money going into the treasury. This law was evidently so unjust that our constitution provides that no person found guilty even of high crimes may be thus deprived of property longer than during his term of life. At his death the property falls to his legal heirs.

In like manner in old England the property of suicides or of persons killed by accident went into the state treas-

ury or that of the king. Our constitution states that in such cases the property shall fall to the legal heirs. .

**Section 16.** — It is the clear duty of the citizen to obey all the laws of the State. The fact that a man believes a law to be unjust or unduly severe does not excuse him from obeying it. The refusal of a part of the people to obey certain laws which they think unjust, always breeds a feeling of disrespect for the law in general and may lead to scenes of disorder. In towns or cities or in any community, the people or a part of them may become dissatisfied with the course pursued by those in authority in the community; as good citizens, nevertheless, it is necessary that they must obey the local as well as the State law.

It is the right of the people or any part of them, under the conditions described above, to petition the General Assembly or the local authorities to consider their objections or to grant their requests. Petitions may be presented to the General Assembly asking for the repeal of an old law or the amending of it so that it may be acceptable. The local authorities in each county may be petitioned to grant the wishes of the people. The constitution clearly grants this right to petition, and it is the duty of legislative bodies and executive officers petitioned to consider carefully the demands of the petitioners. The right to petition for the righting of a wrong or for the granting of a privilege is one of the most powerful weapons of a people. Petitions are very often presented to aid unworthy causes, but such misuse of the right must not allow men to think lightly of this powerful weapon for the defense and retention of their rights.

**Section 17.** — The standing army of a country or state is the body of men who are constantly under arms to defend the people against invasion, insurrection, or rebel-

lion, and to put down any disorder which may arise in the state. The great danger in supporting armies in time of peace is that they may grow too large and thus become a heavy burden on the people. Many European countries have standing armies so large that a considerable part of the tax revenue is needed to support them. To avoid any such condition in our country, the United States constitution and the laws made in accordance therewith by Congress provide for two armed bodies — a regular army, and a volunteer force known as the organized militia. The regular army is supported by the United States government, and the number of men in it is fixed by Congress; it now consists of about 80,000 men continually under arms. The organized militia is the volunteer or reserve force, and each State makes appropriation for its support. This organized militia is composed of citizens engaged in the ordinary vocations of life; and, except when in service or in encampment, they serve without pay. They are regularly drilled in the use of arms, and are ready at short notice to obey the Governor's call to the seat of any trouble.

As the United States government supports a regular army sufficiently large to protect the interests of the country as a whole, our State constitution provides that no standing army shall be kept up by Delaware without the consent of the General Assembly. It also provides that the organized militia shall always be under the direction of the civil power of the State. The organization of the Delaware organized militia is discussed in a later chapter.

**Section 18.** — In time of peace no soldier may be stationed in a private house unless by the consent of the owner. It was once the custom in European countries

and in America in the early days to station soldiers in private houses, and the occupant was compelled to feed and lodge them. This section prevents such injustice in time of peace. In time of war, should the soldiers of our own army be in one of our towns, the magistrate of the town may, under the regulations prescribed by law, lodge the soldiers in private houses. Good citizens do not object to this in the emergencies of war, for the soldiers are there to protect them and their property, or at least are fighting in the common defense.

**Section 19.** — An hereditary distinction is a title of honor which, at the death of the possessor, falls to the oldest son or to the nearest male relative. An hereditary office is one which is transmitted in like manner. Such hereditary titles and offices are granted in many countries, but our constitution expressly provides that such cannot be granted by this State. No office may be held by an individual longer than during good behavior. No officer of this State may accept any office or title from any king, prince, or foreign state. This latter provision prevents foreign rulers or states from influencing our State officials in their favor by granting titles or offices to them. Private citizens are not forbidden to receive such hereditary titles or offices.

## CHAPTER VII

### THE HOUSE OF REPRESENTATIVES

**The Lawmaking Power** in our commonwealth is vested in the General Assembly, composed of two separate bodies of men—the Senate and the House of Representatives. The bodies are entirely separate, yet in all matters must act together before their acts become laws of the State. This plan of having two distinct bodies in the lawmaking assembly is a European idea : the two-house plan is based on the belief that legislation is bound to be saner, wiser, and better if it has to be passed by two bodies of men than if by only one. Unwise bills may pass one house, but not pass the other, thus not becoming binding on the people. It is true, however, that sometimes good bills fail to become laws through the refusal of one house to pass them.

The preamble of our constitution expressly states that all power lies in the people ; hence the laws must be made by them. As it is not possible in so large a section of country for the men to meet together to make the laws, they choose some of their own number to assemble to make the laws for them. These men, elected by the people to act for them, compose the General Assembly.

**The House of Representatives** is, above all, the people's House ; the Representatives are chosen directly by the people and are of the people. Each Representative, living in the district from which he is chosen, knows it thoroughly, and when he attends the sessions of the As-

sembly he can act according to the needs of his district and of the State in general.

**Members.** — The House of Representatives is composed of thirty-five members. There are ten Representatives from Sussex county, ten from Kent county, and fifteen from New Castle county. New Castle county has more members in the House on account of its large population, having about half the population of the State. Of the fifteen members from New Castle, ten are from the country districts and five from the city of Wilmington.

**Qualifications of Members.** — No person can be a Representative who is not twenty-four years old ; as a rule, he must have been a resident of the State three years next preceding his election, and the last year of these three a resident of the district from which he is chosen. If he has been out of the State on business of the State, or of the United States, such absence is not a disqualification. A citizen of Delaware holding some State or United States government office in a foreign country, or in another State of the United States, may be elected a Representative from his home district in Delaware. Delawareans acting as Ministers or Consuls to foreign countries, or in the government employ at Washington or elsewhere, come under this class. No person who has held the office of State Treasurer can be elected a Representative until he has made his annual reports and has made final settlement of his accounts with the State. No one who has been convicted of embezzlement of public money, bribery, perjury, or any infamous crime, can be chosen as a Representative.

Every community should exercise great care in selecting its Representative. This is an important office, and the most suitable men in the community should be chosen to

represent the interests of the people. The office should not always go to the man who desires it. Very often worthy citizens declare their willingness to serve the community if the people desire them to do so, but again, men are often candidates who desire the office for personal gain or mere honor. The salary of a Representative is very small, and as the attendance upon the sessions of the House takes a man from his regular business, too often those who would make the best Representatives do not desire the office. In such a case if the people urge upon a man their desire to have him represent their interests, he is often ready to sacrifice his personal affairs for the public good.

**Term and Salary.** — The term of a Representative is two years. Each Representative district chooses one Representative at the general election every even year. The term begins the day after the election. Each Representative during his term serves at one regular session of the General Assembly and such extra sessions as the Governor may call during his term.

Each Representative receives \$5 per day for each day of a regular session, and the same sum for each day of an extra session; but if a regular session lasts more than sixty days or an extra session over thirty days, no pay can be drawn for the additional time. The Representative who serves as Speaker of the House receives \$6 a day instead of \$5. The salaries and other expenses of each session are paid out of the State treasury, an act appropriating the money being passed near the end of the session.

Besides their salary the members are furnished with stationery, postage, and desk supplies such as they may need during the session, but such supplies for each mem-

ber may not cost over \$25 for a regular session and \$10 for a special session. A Representative may take his allowance for supplies in money. The purchase of these supplies is in the hands of the Board of State Supplies.

**Sessions.** — The General Assembly meets every two years in regular session. Under the constitution of 1897 the regular biennial sessions are held in the odd years and open on the first Tuesday of January. Special sessions may be called by a proclamation issued by the Governor, and such special sessions open on the day named in the proclamation. Under the present rules of the House the Representatives meet every day of the week except Sunday, unless the House otherwise provides, the morning session opening at half past ten o'clock and the afternoon session at two o'clock. When the day of final adjournment approaches, meetings may be held in the evening to finish the business before the House.

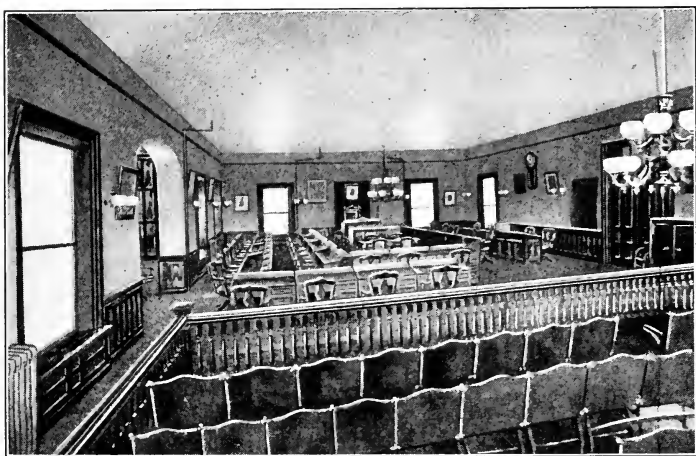
It is not often that a regular session of the House lasts over sixty days or a special session over thirty days. This is ample time for the making of the laws necessary for the welfare of the State. The comparatively small population of the State demands that the cost of supporting the legislative body be as small as possible.

**Place of Meeting.** — By Article II, Section 5, of the constitution, Dover is named the capital of the State. Here both the Senate and the House of Representatives hold their sessions in chambers set apart for them in the State House. In case of an insurrection or when the capital may be in the hands of an enemy in time of war, the Assembly may adjourn for the time to some other city which it may choose. Should Dover be visited by a general conflagration and the place of meeting destroyed, the Assembly may adjourn to some other place until a place of



meeting is again provided in Dover. Should an epidemic of disease break out in Dover, the health and lives of the members would be endangered and the legislative function of the Assembly would be hampered; hence it is provided that under such circumstances the Assembly may adjourn to some other place during the continuance of the epidemic.

If the House of Representatives wishes to adjourn for more than three days, it must secure the consent of the



Chamber of the House of Representatives

Senate; in like manner, should the Senate wish to adjourn for more than three days, it must secure the consent of the House. By this provision neither body can impair by prolonged adjournment the rapid and useful enactment of laws. It becomes necessary at times for the House or the Senate or for both as a body to adjourn to some other place to examine the condition of State institutions or State works concerning which legislation is to be made. If such

a visit is contemplated by either house, it must secure the consent of the other body. If both houses wish to go as one body, a joint resolution to that effect is passed by both houses.

**Vacancies.** — Whenever a vacancy occurs in the House of Representatives through the failure of the district to elect a Representative at the regular election, or through the death, resignation, or ineligibility of the person elected, or otherwise, the vacancy is filled for the remainder of the term by a special election. If the vacancy happens during a session of the General Assembly, the Speaker of the House issues the writ calling for such special election; if the General Assembly is not in session, the Governor issues the writ of election.

**Powers Peculiar to the House.** — The House of Representatives has two powers which it alone can exercise: the power of proposing bills for raising revenue, and the power of impeachment.

All bills for raising money through taxation or otherwise must originate in the House. Such bills, however, must also be passed by the Senate, which has the power to add amendments. It is proper that those who pay the taxes should through their direct representatives have the power to determine what and how heavy these taxes shall be.

Impeachment is the formal and solemn accusation of breaking a public trust brought against a public officer. The House alone has the power to originate and pass a bill of impeachment. These two powers are discussed in succeeding chapters.

**Officers of the House.** — The House of Representatives, according to a constitutional provision, must choose one of its members as the presiding officer, who is known as the Speaker.

Each House of Representatives decides what its other officers shall be. They usually are :

Clerk,  
Reading Clerk,  
Enrolling Clerk,  
Chaplain,  
Attorneys,  
Sergeant at Arms,  
Page.

All of these officers are chosen at the opening of each regular biennial session and hold office until the opening of the next biennial session.

**The Speaker.** — As the presiding officer of the House, the Speaker puts all questions, rules upon all points of order, reprimands members at the request of the House, appoints all committees unless otherwise directed, and has all other powers usually possessed by a presiding officer. He has the right to vote on all questions, as he is a member of the House; but when the yeas and nays on any question are called for, he must be the last one to vote. Whenever he wishes to leave the House Chamber or desires to vacate his chair for a time, he may appoint any member of the House to take his place, but such person must give up the Speaker's chair whenever the Speaker wishes to take his place again. The Speaker is chosen for a regular session only, but it is the custom to have him preside over all extra sessions which may be called before the next biennial session.

This officer is a most important one, for on his knowledge of parliamentary law, his dignity and personality, will depend largely the order and decorum of the House and the speedy dispatch of business. He must be a man

who can command the respect of his fellow-members ; he should be impartial and fair-minded, and at all times composed and at his ease. In the exercise of his duties he must continually keep in mind the usages of parliamentary law and be ever mindful of the rights of the individual members.

**The Clerk of the House** is not a member of the House and has no voice unless the Speaker asks him for information. His duty is to keep the journal of the House and to have it printed at the end of the session. He keeps a record of all votes of yeas and nays. His office is an important one, for he must record all the acts of the House. His salary is not fixed by law, but usually is from \$1200 to \$1500 for a regular session and a proportionate sum for a special session.

**The Reading Clerk** is not a member of the House and has neither voice nor vote on any question. His duty is to read all bills, notices, and messages to the House. Each bill is at the proper intervals read by him to the House three times. He reads the Governor's regular and special messages, and all communications from the Senate or other bodies. Whenever the Speaker calls for a vote, the reading clerk calls the names of the members in alphabetical order, and the yeas and nays are entered on the journal by the Clerk of the House as the constitution and the rules of the House may require. He receives for his services about \$500 for a regular session and a proportionate sum for an extra session.

**The Enrolling Clerk** is not a member of the House and has no voice or vote on any question. It is his duty to enroll in the proper manner all bills, resolutions, etc., which may be given to him for enrollment. In copying such bills and resolutions he must exercise great care, for a small mistake in a copy of a bill may change its character

and intent. The enrolling clerk receives a salary of about \$500 for a regular session and a proportionate sum for a special session.

**The Chaplain** is usually a minister of some Christian church; it is his duty to open the session of the House with prayer each morning. He receives for his compensation about \$75 for a regular session and a proportionate sum for a special session.

**Attorneys of the General Assembly.**—The House and Senate choose at the opening of the regular biennial session such counsel as they may consider necessary, who are qualified practitioners in this State. Their duty is to draw up in legal form all bills and resolutions requested by the members. They may be called upon to explain points of law to members and to advise regarding the constitutionality of proposed legislation. There are usually four of these attorneys and each of them is paid about \$1000 for a regular session and proportionate amounts for extra sessions. They must be constantly within easy call of the House Chamber so that they may be on hand at once when their opinion or service is required.

**The Sergeant at Arms** is not a member of the House and has no voice or vote on any question before the House. It is his duty at the command of the Speaker to secure order, to eject offensive visitors, to order visitors from the House in preparation for a secret session. He has general custody of the House Chamber and sees that it is secure from intrusion between the sessions. He serves summonses to members or witnesses to appear in the House. He serves all writs of arrest for absent members issued by the Speaker and in every way must obey the command of the Speaker. He receives about \$300 for a regular session and a proportionate sum for a special session.

**The Page** is a boy whose duty is to run errands for the Speaker and the members of the House. He receives about \$50 for a regular session and a proportionate sum for an extra session.

**Organization of the House.**—On the first Tuesday of January of the odd years the persons who have been elected Representatives go to Dover and assemble in the House Chamber. Some one rises and nominates a member as temporary chairman, and if there are no other nominations, he puts the question and calls for yeas and nays. Some other member is chosen temporary secretary in a similar manner. If there are several nominations for temporary chairman or temporary secretary, or for both, the maker of the first nomination appoints tellers and a regular election is held. The persons so chosen take their respective places. The members then present their certificates of election to the chairman, and if they are found correct, one of the State Judges swears them into office, each member taking the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of Delaware, and that I will faithfully discharge the duties of the office of Representative, according to the best of my ability. And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed or offered or promised to contribute, any money or other valuable things as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office." Officers chosen at any election, before they enter upon the duties of their respective offices, also take and subscribe to the oath or affirmation above prescribed.

After one member has been sworn in by the Judge, he

may in turn swear in all the rest ; but the custom is to have the Judge give the oath to all the members. After all the members qualified have taken the oath, the House proceeds to elect its officers, and then the temporary chairman and temporary secretary give up their places to the elected officers. The House is now regularly organized and ready for such business as may come before it.

The first step taken by the Speaker is to appoint three members of the House to join two members of the Senate, which five compose a joint committee to notify the Governor that the General Assembly is now organized and ready to begin its work and to receive any communication he may wish to make. The Governor then sends the Secretary of State to both houses with a copy of his message. When the Secretary of State enters the House, the members rise and the Secretary delivers the message to the Speaker. On motion of one of the members the message of the Governor is read by the reading clerk. After such reading the House usually adjourns to allow the Speaker to form the committees.

**Order of Business during a Session.** — Eighteen members of the House constitute a quorum to do business. The order of business according to the House rules is given below. This order may be changed at the will of the House.

1. Prayer by Chaplain ;
2. Reading of Journal ;
3. Communications from Speaker ;
4. Reports from Standing Committees ;
5. Reports from Special Committees ;
6. Petitions and Memorials ;
7. Introduction of New Business ;

8. Second Reading of Bills;
9. Business on Calendar;
10. Miscellaneous Business.

**Standing Committees.**—The Speaker of the House appoints at the opening of each session a number of standing committees whose duty it is to examine into the merits of all bills referred to them by the Speaker, and to report on them to the House through their chairman favorably or unfavorably, or on their merits. The committees at the biennial session of 1907 were :

- Committee on Rules (5 members);
- Committee on Elections (5)<sup>1</sup>;
- Committee on Revenue and Taxation (7);
- Committee on Judiciary (7);
- Committee on Federal Relations (7);
- Committee on Crimes and Punishments (7);
- Committee on Accounts (7);
- Committee on Claims (7);
- Committee on Temperance (7);
- Committee on Education (7);
- Committee on Enrolled Bills (7);
- Committee on Appropriations (5);
- Committee on Miscellaneous Business (7);
- Committee on Stationery and Supplies (7);
- Committee on Agriculture (7);
- Committee on Municipal Corporations (8);
- Committee on Fish, Oysters, and Game (5);
- Committee on Printing (7);
- Committee on Revised Statutes (5);
- Committee on Private Corporations (7);
- Committee on Banking and Insurance (5);

<sup>1</sup> The figures indicate the number of members on the committee.



Committee on Public Highways (7);

Committee on Military Affairs (7);

Committee on Charities and Eleemosynary Institutions  
(7);

Committee on Manufacturers and Commerce (7);

Committee on Public Buildings (7);

Committee on Labor (7);

Committee on Immigration (7);

Committee on Public Health (7);

Committee on Revised Code (7).

## CHAPTER VIII

### THE SENATE

THE Senate is the upper house of our General Assembly. Its members are chosen for a longer term than the Representatives, they are fewer in number, and their office is regarded as one of superior dignity and importance. The Senators are supposed to be men of the highest ability and character, men who know the affairs of the State thoroughly and who have had experience in the practical affairs of life. The Senate, because of the character of its membership, is a highly deliberative body and serves as a check to ill-advised or hasty legislation. In organization and powers it resembles very much the United States Senate.

**Members.** — The State Senate is composed of seventeen Senators: five from Sussex county, five from Kent county, and seven from New Castle county; two of the Senators from New Castle county are from the city of Wilmington and five from the rural districts.

**Senatorial Districts.** — As a rule each Senatorial district consists of two Representative districts. The Senatorial districts of New Castle county are numbered from one to seven, one and two composing the city of Wilmington, and three, four, five, six, and seven composing rural New Castle. The districts in Kent and Sussex counties are numbered from one to five respectively. The limits of the Senatorial districts are carefully defined in the latter part of Article II, Section 2.

**Qualifications of a Senator.** — A Senator must be at least twenty-seven years of age. At this age a man's mind is fairly mature; he is not so impetuous or hasty as he once was; as a rule he does not form his opinions or act on them until after due deliberation. This age is therefore required for membership in the higher body of our General Assembly, a body where calm deliberation and sane and impartial judgment are so necessary. Each Senator, like a Representative, must have been a citizen and resident of this State three years next preceding his election, and the last year of these three a resident of the Senatorial district from which he is chosen. In other respects he must have the same qualifications as a Representative.

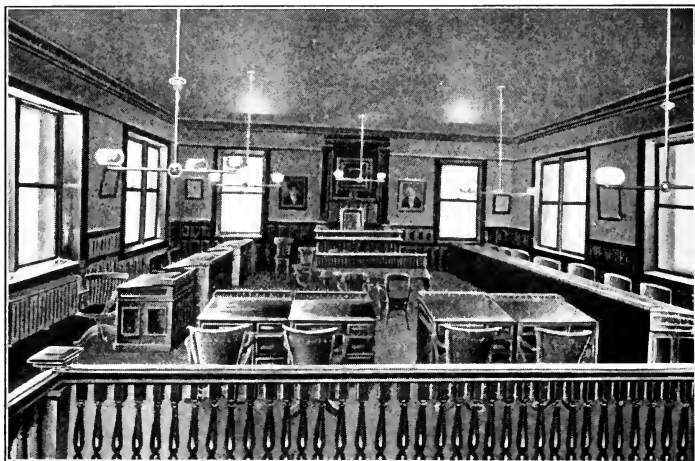
Because of the dignity and importance of the Senator's position, every district should exercise great care in electing men to this office.

**Term and Salary.** — The Senators are elected on general election day, and one half of the whole number are chosen every two years. By this wise provision the Senate always contains a number of experienced members; if the terms of all the Senators expired at the same time, and if none were reelected, this important body would be composed entirely of inexperienced members. The term of a Senator begins the day after he is chosen and continues for four years. He serves therefore at two regular biennial sessions of the General Assembly. It usually takes a Senator one whole session to become familiar with his duties, and his best service to his district is generally rendered at the second session. He serves also at such special and executive sessions as may be called during the four years for which he was chosen.

A Senator receives the same salary as a Representative, subject to the same conditions; but if the Governor calls

an "executive session" of the Senate, each Senator receives also \$5 per day for each day of such session.

**Sessions of the Senate.** — What has been said concerning the sessions of the House of Representatives holds true for the sessions of the Senate. The Governor, however,



Senate Chamber

may call the Senate alone into what is called executive session, if there are any important appointments which must be confirmed before the next regular session. In case of an appointment to a judgeship the Governor calls the Senate into executive session within thirty days of the time the vacancy occurred, to confirm or reject his appointment.

**Place of Meeting.** — What has been said as to the place of meeting of the House of Representatives applies also to the Senate.

**How a Vacancy is Filled.** — A vacancy in the Senate is

filled in the same way as a vacancy in the House of Representatives, except that when a vacancy occurs during a session of the Senate the Lieutenant Governor or President *pro tempore* issues the writ of election.

**Powers Peculiar to the Senate.**— The Senate possesses two powers which it alone may exercise; the power to try all cases of impeachment, and to confirm or reject the Governor's appointments. The trial of impeachment cases is discussed in a later chapter.

The Senate must confirm or reject the Governor's appointments to certain offices. The Governor has the power, under the constitution and under certain laws made in accordance with it, to appoint men to fill certain offices. Such appointments, if the salary is not over \$500 and the constitution or laws do not provide for confirmation, are valid and take effect without any action of the Senate. But in all important offices the Governor's appointment must be confirmed by the Senate before he may grant the appointee a commission for the full term allowing him to exercise the powers of his office.

Appointments are confirmed about in this manner. At the opening of each biennial session the President of the Senate appoints an Executive Committee, which usually has three members. Whenever the Governor has made any appointments, he sends the list to the Senate by the Secretary of State. The President of the Senate refers them to the Executive Committee. The Executive Committee may not, except by the unanimous consent of the Senate, report on such appointments the same day they were referred to it. When this committee is ready to report, the Senate goes into executive session. All persons except the Senators, President, and necessary officers of the Senate are excluded from the Chamber and

the doors are closed. The members and officers are pledged to secrecy as to what is said during such a session. The nomination of the Governor is then either confirmed or rejected by the Senate, and the Governor is advised of its action.

If a nominee of the Governor is rejected by the Senate, the Governor either makes another nomination or endeavors to remove the Senate's objections. If he can overcome these objections, the Senate may confirm the nomination.

This power of confirming the appointments of the Governor is an important one, for if an individual appointed is known by the Senate to be unfit for a public trust, it may by rejecting the appointment prevent him from securing the position.

**President.** — The Lieutenant Governor of the State is by virtue of his office the President of the Senate. He presides over the sessions of the Senate, receives all messages sent to the Senate, decides all points of order, calls for the question on all bills and resolutions, and appoints all committees unless the Senate otherwise directs. He has no vote unless the Senate is equally divided; in such a case he casts the deciding vote. He presides over impeachment trials except when the Governor or he himself is to be tried.

For his services he receives, like the Speaker of the House, \$6 per day during each session, but only for the first sixty days of a regular session and for the first thirty days of an extra session.

**President Pro Tempore.** — At the opening of each biennial session the Senate chooses one of its members as President *pro tempore*, to act as the President of the Senate during the absence of the Lieutenant Governor or

when he is performing the duties of Governor. The President *pro tempore*, being a member of the Senate, has a vote on all questions. He receives the same pay as the Speaker of the House.

**Other Officers.**—The Senate at the opening of each biennial session usually chooses the following officers :

Secretary,  
Reading Clerk,  
Enrolling Clerk,  
Chaplain,  
Attorneys,  
Sergeant,  
Page.

These officers are not members of the Senate and have no voice or vote. They hold office during the biennial session and such special sessions as may be called before the next regular session. The Secretary of the Senate has the same duties as the Clerk of the House and generally receives the same salary. The duties and salaries of the reading clerk, enrolling clerk, chaplain, sergeant, and page are the same as of the corresponding officers of the House of Representatives. The same attorneys serve both the Senate and the House of Representatives.

**Organization of Senate.**—On the first Tuesday of January of the odd years the “hold over” Senators and the newly elected members assemble in the Senate Chamber in the State House at Dover. (“Hold over” members are those who have served the first two years of their terms.) The Lieutenant Governor calls the assemblage to order, and the meeting is opened with prayer. The roll of “hold over” members is then called. The certificates of election of the new members are then presented to the Lieutenant

Governor, and if they are found correct, the new members are at once sworn in by a "hold over" member or by one of the State Judges. The Senate now proceeds to elect its officers. The President *pro tempore* is chosen first and then the other officers. The Senate then begins business in much the same way as the House (p. 101).

**Order of Business.** — Nine members of the Senate constitute a quorum to do business. The Senate conducts its sessions after the following order of business, but this order may be changed as it sees fit :

1. Prayer by Chaplain ;
2. Roll Call ;
3. Reading of Journal ;
4. Reports of Standing Committees ;
5. Notices ;
6. Bills for First Reading ;
7. Bills for Second Reading ;
8. Bills for Third Reading ;
9. Miscellaneous Business.

**Standing Committees.** — The President of the Senate at the opening of each biennial session appoints a certain number of standing committees. These generally are :

- Committee on Corporations (5 members) ;
- Committee on Cities and Towns (5)<sup>1</sup> ;
- Committee on Education (5) ;
- Committee on Claims (5) ;
- Committee on Finance (5) ;
- Committee on Agriculture (5) ;
- Committee on Elections (5) ;
- Committee on Accounts (5) ;
- Committee on Printing (5) ;

<sup>1</sup> The figures indicate the number of members on a committee.



Committee on Revised Statutes (5);  
Committee on Fish, Oysters, and Game (5);  
Committee on Judiciary (5);  
Committee on Enrolled Bills (5);  
Committee on Vacant Lands (5);  
Committee on Insurance and Banking (5);  
Committee on Rules (5);  
Committee on Public Buildings and Highways (5);  
Committee on Executive (3).

## CHAPTER IX

### HOW A BILL BECOMES A LAW

THE sessions of both branches of the General Assembly are almost entirely devoted to the discussion and consideration of bills presented by the members.

New laws and the revision of old laws become necessary as the years pass. If new conditions did not continually arise, if a people did not constantly progress, then it might not be necessary to enact new laws. The old laws, unchanged, would serve to guide, to regulate, and to protect the people in their occupations and in their relations with their fellow-citizens. We cannot imagine such a state of rest or inactivity in any American commonwealth. The pulse of life throbs rapidly in all of our States. Life each year becomes more complex, the activities of men become more numerous and varied; such activities must be regulated, the rights of the individuals engaged in them must be defined. This power lies wholly in the General Assembly, which enacts such laws as are made necessary by the changing needs of the people. No citizen should be ignorant of the lawmaking process. This chapter discusses the entire process by which a measure becomes a law.

**Origin of a Bill.** — There is no set way in which a bill may originate. A single individual, a group of men, or the people of a certain section may desire that a certain law be enacted, and may proceed to formulate into a legal

form the provisions which are to be the features of the bill. Any person of fair education is able to draw up a bill, but the usual manner is to have an attorney formulate the provisions. Senators and Representatives who wish to draw up a bill for presentation may do so themselves or ask the attorneys of the Assembly to do it for them. It has become a custom to have typewritten all bills that are to be introduced.

After a bill has been drawn up, the next step is to secure some Senator or Representative to present it in the body of which he is a member. The persons who desire the introduction and passage of a bill usually try to have some member who is in its favor give notice of it and take care of it in his house. They seek to do this so that the bill may be certain to receive due consideration. Senators and Representatives can generally be persuaded to give notice of any bill which is presented to them by their constituents, whether they favor the bill or not. They feel it their duty to give notice of all bills presented to them, but may give no further aid than this if they are not interested.

**Notice of a Bill.** — To give what is called “notice of a bill,” a member of the Assembly fills out a blank form provided for this purpose, like the following (for the Senate):

SENATE — FORM 2.

Mr.----- gave notice that on to-morrow or some future day he would ask leave to introduce a bill, entitled :

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In this blank he states the title of the bill and briefly outlines its principal features. This form he sends to the Clerk of the House if he is a Representative or to the Secretary of the Senate if he is a Senator, and the reading clerk reads it during the proper order of business. Such

notice of a bill must be given at least one day before it is introduced. Notice is given of many bills which are never introduced, the member who has given notice finding that another bill of the same kind has been or will be presented, or that the bill would meet with too much opposition.

**Presentation and First Reading of Bill.** — One day after notice of a bill has been given, or any future day, the member having the bill in charge may rise from his seat and ask permission to introduce the bill, naming its title and chief provisions, for the consideration of the house. If such permission is granted, the bill is read carefully, word for word, by the reading clerk. After it has been read the presiding officer gives it a name and number; as, Senate bill No. 35, or House bill No. 50, according to the house in which it is introduced.

**Second Reading of Bill.** — According to a rule of both houses no bill may have its first and second reading on the same day except by the unanimous consent of the members of the house considering the bill. Immediately after the close of the first reading the member in charge of the bill may ask for unanimous consent for a second reading of the bill. If this is granted, and it usually is, the bill is read by title only and then referred to the proper committee.

If a bill does not receive its second reading on the same day as the first by unanimous consent, the member may on the day following the first reading or at a future time ask for the second reading of the bill, and permission being granted the bill is read for the second time — generally by title only — and referred to the proper committee.

The reading by title only saves a great deal of time, and a second reading in full is considered unnecessary. If the bill is an important one, the house may order the

clerk to have a certain number of copies printed for the use of the members. In this way each member and the interested public can have a full copy of the bill and can study all of its provisions.

**The Bill in Committee.** — Each bill after its second reading is sent by the presiding officer of the house to the proper committee. This committee proceeds to consider the bill, and after such consideration reports to its house.

It has been said that our laws to-day are largely "committee legislation." This is overestimating the power of the committees, but it is true that they are a very important part of the lawmaking machinery.

The number of bills presented to legislative assemblies has made the committee a necessity. In the early days of our national Congress and of our State Assemblies, all the bills presented to a house were discussed in a session of the whole body. This was right and proper as long as the number of bills presented was small. As the interests of the people grew more varied and extensive, the number of bills presented to Congress and the Assemblies became proportionately larger, until at last they were overwhelmed with work. They found that they could not consider all the bills presented to them, and often the discussion and passage of important bills were impeded by the consideration of trivial bills. If each house of our Assembly had to consider in a session of the whole all the bills presented to it, it would have to be in session every day of the year. A way out of the difficulty had to be found, and the "committee plan" has been found to be a fairly satisfactory solution.

The standing committees of each house (pp. 102, 110) serve throughout a whole session. The number of members on a committee varies with the importance of the

work assigned to it. Each bill is referred to the proper committee for careful consideration. Thus, if a bill affecting the educational interests of the State is introduced, after its second reading it is referred to the Committee on Education. The committee meets at stated times and discusses the provisions of the bill. The members of the committee may hear witnesses for and against the bill. They may listen to all delegations or individuals who desire a hearing. If after due consideration and examination a majority of the committee think the bill a desirable measure, they decide to give a favorable report. If a minority of the committee wish to present an unfavorable report, they may do so. If a majority think that the bill is not a desirable measure, they decide to give their house an unfavorable report; the minority having the right to present a minority report. In determining what its report shall be, the committee endeavors to do full justice to each bill referred to it.

If a committee is undecided concerning the merits of a bill or is divided in its opinion, it may decide to report the bill "on its merits." This is quite frequently done.

By this committee plan bills never come before the house after the second reading except as they may be reported. It is said that half of the bills presented to each house do not get farther than the committee. A great many bills are never reported, either favorably or unfavorably, and the committees have been aptly called the "graveyard" of the Assembly. Good bills as well as poor ones may die here. Of course each committee is supposed to report within a certain time on the bills referred to it, but strong opposition may prevent any report being given. If a committee fails to report on a bill, the house in which the bill is in committee may compel the committee to pro-

duce the bill and may proceed to consider it in what is called "committee of the whole."

During the order of business called "reports of standing committees," in each house, the chairmen of the committees report favorably or unfavorably on such bills as have been duly considered. If a bill is reported favorably or unfavorably, or on its merits, it is placed on the calendar of that house and is ready for its discussion and third reading. The calendar of each house is a list of such bills as have been reported from committees and are ready for third reading, discussion, and final action; there is such a list for each day.

If a bill has been reported and a house does not think that the bill has received due consideration from the committee, by a majority vote the bill may be returned to the committee for reconsideration, which reconsideration the committee must proceed to give as soon as possible. This is called "recommitting a bill." Bills reported favorably are not always passed by the houses, and bills reported unfavorably are sometimes passed by large majorities. The committee's report, while influencing a house for or against a bill, does not of necessity determine its final action.

**Amendments.**—The committee considering a certain bill may wish to change some of the provisions of the original bill or desire to add some new provisions. Such changes and additions are put in "amendments." The committee in such case reports the bill with the amendments.

When a bill has been reported and is before the house for final action, any member may offer an amendment or amendments to the bill. In such case one of two things may be done: the amendment or amendments may be separately adopted or rejected, or the bill with the amendments may be returned to the committee from which the bill

came. The latter custom, that of referring the bill with amendments to the committee, is generally followed. The committee after considering these may decide to change the whole form of the original bill and draft a new one containing the provisions of the amendments, or it may report the bill favorably or unfavorably as amended. It happens not unusually that a bill is so amended as to change its whole meaning.

**Third Reading; Discussion and Final Action.** — After a bill has been finally reported from a committee it is placed on the calendar for action. Any bill on the calendar for a certain day may be called up for its third reading on that day.

It has become an established custom that a bill shall be called up for its third reading by the member who introduced it. It is the height of parliamentary discourtesy for any one but the introducer of a bill to call it up for action, except, of course, when the introducer requests one of his fellow-members to do this for him. Every bill is supposed to be in the hands of the one who introduced it, and it is his privilege to call up the bill when he desires to do so. In this way a bill generally does not come up for final action until the members have been canvassed outside of the chamber.

When a member wishes to bring his bill before the house for its third reading, he rises and moves for its consideration. If there are no objections, the reading clerk reads the bill. This third reading of the bill is very important, and the members pay careful attention. The reading clerk reads one section at a time, after which the presiding officer says, "If there are no objections, this shall be section — of the bill." After the sections are all read, the reading clerk reads the title of the bill, and the presiding officer



says, "If there are no objections, this shall be the title of the bill." The reading clerk then reads the enacting clause of the bill, and the presiding officer says, "If there are no objections, this shall be the enacting clause of the bill." If there are any amendments, these are read and must be passed or rejected before the bill as a whole is voted on. After the amendments have been disposed of, the bill as a whole is considered. It is not until after the third reading that the bill is discussed on the floor of the house. Every member has a right to speak at least twice on the bill and oftener if the presiding officer "recognizes him," *i.e.* gives him the right to speak. As a general thing there is no prolonged discussion of bills on the floor, as they have been thoroughly talked over outside the chamber. After the discussion is over the presiding officer puts the question, "Shall this bill pass the House (or Senate)?" The reading clerk calls the names of the members in alphabetical order, and the members vote by yeas and nays. The Clerk of the House or Secretary of the Senate, as the case may be, records the votes on the journal of that house. If the bill receives a constitutional majority of eighteen in the House or nine in the Senate, the presiding officer declares the bill passed and orders it to the other body for concurrence. For the passage of some bills, such as appropriation bills, bills for bonding the State, a county, a city, or a town, and bills changing or granting charters, a two-thirds or a three-fourths vote is necessary.

**The Bill in the Other House.**—After the bill has passed one house, the clerk of that body takes it to the other house and presents it for concurrence. The bill in this house goes through the same process as in the first house. It receives its first and second reading, goes to committee, is reported on, and after its third reading

is either concurred in or not. The bill may, however, be amended by the second house; it is then sent back to the house in which it originated, and if that house concurs in the amendment, the bill as amended is declared to have passed both houses. If the house in which the bill originated does not concur in the amendment added by the other house, it may ask for a conference. In such cases the proper committees of the two houses hold a conference and adopt a report. If each house adopts the report of the conference committee, then the bill is declared to have passed both houses. If either fails to adopt the conference report, the bill of course "dies."

Many bills passed by one house get no farther than the committee in the other house. The member who had charge of the bill in the first house usually secures a member of the other house to "call up" his bill for its third reading. If he does not secure any one to do this, any member of the second house may call it up for final action.

If the bill is finally concurred in by the second house, the presiding officer orders it sent back to the house in which it originated. When it reaches the first house again, the presiding officer gives it to the enrolling clerk of that house, who proceeds to engross it on a certain form provided for this purpose. This enrolling is done with the utmost care so that the wording and punctuation may be absolutely correct. Often the misplacing of a comma may change the meaning of a bill. After the bill has been engrossed, or enrolled, it is given to the enrolling committee of the proper house, which carefully goes over the bill to correct any mistake which may have been made in it by the clerk. The presiding officers of both houses sign this copy, and the bill is ready for the Governor's signature.

These engrossed copies of the bills are kept in the vault of the State House in the custody of the Secretary of State.

**The Governor's Approval or Veto.**—The bill having passed both houses and having been duly engrossed and signed is sent to the Governor for his approval or disapproval. If he approves the bill, he signs it and the bill is then a law and must be obeyed as such. It becomes a part of the Statute Law and as such must be enforced by the Executive Department.

If the Governor does not approve the bill, he states in writing his objections to it and sends them with the bill to the house in which it originated. This house then reconsiders the bill and the objections of the Governor. If after such reconsideration three fifths of the members of that house vote in favor of the bill, it is declared by the presiding officer passed over the Governor's veto. In neither house, however, can the vote be taken on the same day the bill is returned to it. If it does not receive the necessary three-fifths vote, the bill "dies" in that house. If it is passed, it is sent to the other house and reconsidered with the Governor's objections, and if three fifths of that house vote in favor of the bill, it becomes a law without the Governor's signature. If it does not receive the three-fifths vote, the bill "dies" in that house.

Sometimes bills are presented to the Governor concerning the merits of which he is in doubt. If he does not sign the bill within ten days, Sundays excepted, and does not in that time return it to the house in which it originated, the bill becomes a law without his signature. This is a second way in which a bill may become a law without the Governor's signature. If, however, the Assembly should by its final adjournment prevent the return of the

bill within such ten days, the bill does not become a law.

Many bills are passed during the last days of a session. Such bills must be signed within thirty days of the final adjournment of the General Assembly, or they do not become laws. If an appropriation bill is presented to the Governor for his signature, and he approves the bill as it stands, it becomes a law. If he approves some items and not others, such items as he does not approve must be repassed by a three-fifths vote of both houses, or they are dropped from the bill.

Every order, resolution, or vote to which the concurrence of both houses is necessary, except on a question of adjournment, must be presented to the Governor for his signature. Not being approved by him, it must, in order to be legal, be repassed by a three-fifths vote of both houses, just as in the case of a bill.

The Governor's power to approve or disapprove a bill is the last check to legislation. In the heat of excitement or in response to popular demand both houses may pass a bill, but on learning the Governor's objections, and upon reconsideration, may fail to pass it by the necessary three-fifths vote. The Governor does not often exercise his veto power, but if he thinks a bill unconstitutional, or passed only for party or personal ends, he should not hesitate to do so. It takes a strong man to oppose himself to both houses; therefore it is necessary that the man in the Governor's chair should be an individual of fair mind and courageous spirit. It may happen that the Governor for personal reasons will veto a bill in every way good and desired by the people. It is necessary that the Assembly should have the power to enact laws over the Governor's veto; for if it could not, the Governor would practically

be nothing less than an autocrat, with power to dictate what should and what should not be law.

**Résumé.** — A bill, therefore, may become a law in the following ways: —

1. If it is passed by a majority of both houses and is signed by the Governor.

2. If it is passed by both houses, vetoed by the Governor, and repassed by a three-fifths vote of both houses.

3. If it is passed by a majority of both houses and is not returned by the Governor within ten days, Sundays excepted, to the house in which it originated, unless the Assembly by final adjournment prevents such return within ten days.

4. If it is passed by both houses during the last days of a session and is signed by the Governor within thirty days of the final adjournment.

A bill may fail to become a law in any one of many ways.

1. Notice may be given, but the bill may never be formally introduced.

2. The bill may not be called for its second reading in the house in which it has been introduced.

3. It may not be reported from committee.

4. It may be passed by one house but not reported from committee in the other house.

5. It may be passed by one house but rejected by the other.

6. It may be passed by both houses, vetoed by the Governor, and not repassed by a three-fifths vote in the house in which it originated.

7. It may be passed by both houses, vetoed by the Governor, repassed by a three-fifths vote in the house in which it originated, but fail to pass the other house by the necessary three-fifths vote.

8. It may be passed by both houses during the last days of a session and not be signed by the Governor within thirty days after final adjournment.

9. A bill may be withdrawn at any time by the member who introduced it, if he secures the unanimous consent of the members of the house.

## CHAPTER X

### POWERS AND LIMITATIONS OF THE GENERAL ASSEMBLY

EVERY legislative body must have certain clearly defined powers if it is to be effective, well regulated, and respected. The powers of the Delaware General Assembly are very clearly defined and limited in the constitution.

The entire first article of our constitution is devoted, as we have seen, to the Bill of Rights. None of the rights granted in this article can be abridged or abolished by the General Assembly. Should it pass a law impairing any of these rights, the courts would declare the law unconstitutional; hence it could not be enforced. Article II of the constitution sets forth various powers and limitations of the General Assembly.

**Section 8.** — When there is a dispute in a Representative district as to who was elected Representative at the general election, the dispute is referred to the House of Representatives. As soon as the House meets in biennial session and has duly organized, it examines into any such disputed election, and decides which candidate was elected. In making such examination it may bring the ballot boxes of the district into the House and verify the election returns. The decision of the House is final.

If there is a dispute concerning the election of a Senator, the Senate in the same manner decides who was elected.

It may happen that after a man has been chosen as Senator or Representative, objection may be made to his

occupying his seat on the ground that he does not possess the requisite qualifications. Immediately after organization the Senate and House consider such objections, and each body judges whether the objections are well grounded or not. If either house finds a person elected to it not in possession of the proper qualifications, such person may not take his seat. It is seldom that such objection is raised, as the districts are careful that only persons properly qualified are voted for.

A quorum is the number of members of a body necessary to transact business legally. A majority of the members chosen to each house constitute a quorum; thus a quorum in the House of Representatives is eighteen members, in the Senate nine members. Should a smaller number be present no business can legally be transacted in either house, but such number may adjourn from day to day until a quorum is present. Such members as are present, however, have the power to compel the attendance of absent members. In the absence of a quorum the presiding officer of either house may order the sergeant at arms to search for the missing members and bring them into the house. If such members when found by him refuse to come to the house, he may arrest them and bring them to the meeting chamber. Each house may punish a member for staying from the sessions, but such punishment is seldom more than a reprimand from the presiding officer.

It is very necessary that each house shall have this power, for a small number of members by voluntarily absenting themselves may delay legislation. Members who do not wish to take a stand on a certain bill may stay away while it is under discussion and thus hinder the rapid and just making of the laws. They may also absent



themselves at the time when the bill is to be voted on ; and if a sufficient number are absent, because of the lack of a quorum, the vote must be postponed. This is one method of "filibustering," which is an important weapon of a minority and can be used to delay and to hinder legislation.

**Section 9.** — Each house may determine the rules of its proceedings. From the methods of transacting business employed by successive presiding officers of the Senate and the House of Representatives, each house has evolved for itself a series of rules according to which it transacts the daily business. These rules are not laws ; but at the opening of each session each house adopts its rules for that session. Either house may suspend or change its rules as it may think proper. The rules are printed in booklet form every session.

The sessions of our legislative bodies in America are remarkably free from the disorder and violent scenes which are characteristic of some European lawmaking assemblies. Yet in the heat of debate or in the clash of opposing opinions, disorder may arise and some of the members may act in an undignified manner. Either house may punish its members for such disorderly behavior in the session chamber. Should a member of either house be guilty of conduct unbecoming a Senator or Representative, he may be expelled by a two-thirds vote of the house of which he is a member.

**Section 10.** — Each house keeps a journal of its proceedings, and at the end of each session publishes the same. The clerk or secretary of each house keeps a record of the acts of his house during the daily sessions, and from this record he prepares the journal. At the request of a member the yeas and nays on every question must be entered on the journal. To pass either house, every bill

or joint resolution must be voted for by a majority of the members elected to that house. The names of the members voting for and against every bill or joint resolution except one in relation to adjournment must be entered on the journal. The Governor's messages are always entered on the journal. If either house so decides, other communications and speeches as a whole or in part may be entered on the journal. These journals are very important, for by consulting them each house can readily see what work it has already accomplished. The people of the State can from this record determine accurately what stand the individual Senators and Representatives took on important measures.

Such parts of its journal as each house may think proper to keep secret, it need not publish. Each house keeps a separate journal, and the Senate in addition to its regular journal keeps a journal of executive sessions, which is at all times kept secret. In executive sessions, when appointments are to be confirmed, the Senators indulge of necessity in great freedom of speech, and for this reason it is best to keep this journal secret.

After the end of each session, usually within a year, the journals of both houses, except the Senate's journal of executive sessions, are printed and bound in separate volumes and distributed. Copies are kept in the State Library for preservation. The journal of the Senate's executive sessions is kept in the vaults of the State House.

**Section 11.** — When either house is in session all persons who wish to do so may usually enter and hear the proceedings. Seats are provided for a limited number, but owing to the small size of the legislative chambers no large number of auditors can be present at once. Visitors may enter only that part of the session chamber set apart for

them. Whenever either house desires the proceedings to remain secret, it can order the sergeant at arms to clear the chamber of all persons except the members of that house. Executive sessions of the Senate are always secret sessions.

**Section 13.**— Senators and Representatives, while attending the sessions of the house of which they are members, or while going to or coming from the same, are privileged from arrest for all crimes except treason, felony, or breach of the peace. This provision prevents members from being, for some trivial cause, kept from the sessions of their house or from being delayed in getting there. They might be arrested for some small offense or perhaps for no real offense at all, merely to prevent them from attending a session when their presence would be most needed. For important offenses or crimes, justice demands that they be subject to arrest at once, as any other citizen would be under similar conditions. This privilege from arrest for lesser offenses is one that has been granted to legislators from very early times in the history of the English-speaking peoples.

Members of each house have freedom of speech in debate on the floor of their house. This privilege is a most important one — one of the basic rights of a member of a legislative body in a republican state. Through such freedom of speech a question before a house may be freely discussed and the views of each member be plainly set forth. A member's statements may be questioned or denied by another member of that house, but he cannot be held to account for what he has said in any other place. This privilege stands out in marked contrast to the condition existing in certain European assemblies, where a man may be silenced at once by the presiding officer.

**Section 14.** — New conditions which may arise often demand the creation of new offices or the increase of the salary attached to some office already existing. If the General Assembly creates a new office or increases the salary attached to one already existing, no member of the General Assembly, during the time for which he was elected, may be appointed or elected to such office. The purpose of this clause is to prevent the creation of new offices or the increase of salaries merely for the benefit of some powerful member of the Assembly.

No United States Senator or Representative, while holding such office, can be a member of the Delaware General Assembly. No person holding any office under this State or the United States, excepting those usually appointed by the courts of justice and attorneys at law, and officers of the militia who hold no disqualifying office, can be a member of either house of the General Assembly so long as he continues in such office. Persons holding such disqualifying offices may be chosen to the General Assembly after resigning the disqualifying offices. For example, the State Treasurer, or a postmaster, cannot be chosen unless he resigns his office.

No person interested in an army or navy contract may be elected to either house of the Assembly.

**Section 16.** — As a rule, every bill or joint resolution presented to either house for its consideration must cover no more than one subject. A bill pertaining to the schools should contain only such provisions as relate directly to them. A bill pertaining to the courts must contain no provisions except such as directly concern them.

An obnoxious clause is sometimes included in a bill otherwise good, and through an oversight may be passed. Such measures are termed "snakes" or "riders," and the

members of the Assembly must ever be on the lookout to detect them. The foregoing provision is designed to lessen this danger.

Bills appropriating money for public use are a noteworthy exception to the above rule. It would place useless work on the Assembly to compel it to pass a separate appropriation bill for each department of the State government. Each Assembly passes a "general appropriations bill," which provides for the moneys expended by the various departments.

**Section 17.** — The General Assembly, as authorized and ordered by the constitution, has passed strict laws prohibiting lotteries, the sale of lottery tickets, pool selling, and all other forms of gambling. There was a time when some of the States themselves conducted lotteries as a source of revenue. Lotteries were looked upon as a highly respectable form of speculation. Many European states still conduct public lotteries, the profits being applied to public works. Our State prohibits all forms of gambling and makes it punishable by the courts. Indeed, so strict are our State laws that even the printing of lottery tickets is an offense punishable by the courts.

**Section 18.** — A divorce is the legal dissolution of the marriage bond. Alimony is money paid by a man to the wife from whom he has been divorced or separated. According to our constitution, divorces or alimony can be granted only by the courts, subject to the laws.

**Section 19.** — The General Assembly can make no local law applying to fences, the destroying of live stock, ditches, the creation or changing of the boundaries of school districts, or the laying out, opening, alteration, maintenance, or vacation, in whole or in part, of any road, highway, street, lane, or alley. These prohibitions are placed on

the Assembly to prevent the passage of local laws which would benefit only certain individuals powerful enough to secure the legislation they desire. If laws on the above subjects are passed, they must be applicable to all cases arising under them throughout the State.

**Section 20.** — A member of the Assembly as a private citizen engaged in some lawful occupation may have an interest in a bill being considered by his house. There is no wrong in his having such an interest in a bill, but if he has, he must rise in his seat and so state to his house. When the bill is voted on for final passage he may not vote on it. By this wise provision, members are prevented from using their public office to further their private interests.

**Section 21.** — It is very necessary that the members of the Assembly and all officers of the State should be men of high character; hence no person convicted of embezzlement of public money, bribery, perjury, or any other infamous crime is eligible to a seat in either house, nor is such person capable of holding any office of honor, trust, or profit under the State.

**Section 22.** — The members of the Assembly and the other officers of the State are supposed to be men of such character that under no circumstances would they receive a bribe. They should not be allowed to be insulted by those who would offer them a bribe to influence them in any way from doing their duty to the public. All persons, therefore, who offer money or a bribe of any kind to a member of the Assembly or to any officer of the State are regarded as guilty of bribery, whether such member or officer accepts the bribe or not, and may be punished therefor according to the laws made by the Assembly on the subject of bribery.

✓ **Section 23.** — Every law passed by the Assembly is a

public law and applies throughout the whole State except when the law in itself declares the provisions to apply only to a certain county, a certain locality, or a certain person or persons.

**The "Sweeping Clause."** — The last part of Article II, Section 9, which reads, "and shall have all other powers necessary for a branch of the Legislature of a free and independent State," may be called the "sweeping clause" of the constitution. By this clause each house may originate and pass such legislation as it may from time to time think necessary for the welfare of the State. The constitution grants certain powers to the Assembly and sets certain limitations to its action, but so long as it stays within its powers and does not take away or abridge or deny the fundamental rights mentioned in the Bill of Rights, it can pass such laws as it may think necessary and proper to safeguard and further the interests of the people. If the Assembly passes a law and an objection is raised to it on the ground that it is not in accordance with the constitution, only the courts of the State can decide the question.

**Statute Law.** — The laws passed by the Assembly are known as the "statute law" of the State. It is the custom to publish the laws passed at each session of the Assembly so that they may be given due publicity throughout the State. The enrolled or original copies of the laws are carefully preserved in the vaults of the State House at Dover. The laws passed by the successive Assemblies fill many volumes, and in order that those in actual use may be easily referred to, the statutes in force are collected, at intervals, in one volume and called the Revised Code. This Code has to be prepared under the direction of the Assembly and then authorized by them. The last Revised

Code authorized by the Assembly was brought out in 1852. In 1893 another Code was prepared, and though it is in general use, it has never been authorized by the General Assembly.

**Local Option** is the power of a certain section to decide whether or not intoxicating liquors shall be made and sold within that section. The constitution in Article XIII provides that whenever the majority of the members chosen to each house of the General Assembly from any district named in Section 2 of Article XIII request the submission of the question of license or no license to such district, the General Assembly shall provide for the submission of this question to the qualified electors in such district at the next general election; the constitution also provides that by an act of the General Assembly the question may be submitted to all the districts at the same time.

Section 2 provides that for the submission of the question, Delaware shall be divided into four districts: the city of Wilmington shall be one district, the remainder of New Castle county one district, Kent county one district, and Sussex county one district.

The General Assembly, according to this constitutional power, passed an act at the biennial session in 1907 authorizing the submission of the question of license or no license to the voters of the four districts at the general election in November, 1907. The result of the election was the abolition of the sale and manufacture of spirituous, vinous, and malt liquors, except for sacramental and medicinal purposes, in Kent and Sussex counties.

**The "Little Legislature."**—The constitution provides that the State Treasurer shall settle his accounts annually with the General Assembly or a joint committee thereof. As the Assembly is not in session in the even years, the



presiding officer of each house during the regular biennial session appoints members of a joint committee which in January of the even year goes over the accounts of the State Treasurer. This joint committee is composed of two Senators and three Representatives.

Besides examining the books of the State Treasurer, this committee also examines the books of the Auditor of Accounts, Secretary of State, Insurance Commissioner, and other State officers. This committee is commonly known as the "Little Legislature."

## CHAPTER XI

### THE GOVERNOR AND LIEUTENANT GOVERNOR

No system of government is complete or effective without a system of executive officers whose duty it is to see that the laws are strictly enforced. The General Assembly of our State may make law after law, but if there were no executive head to enforce these laws rigidly, they would be disobeyed, the people would soon lose their respect for all law, and a condition bordering on anarchy would follow. Our constitution and laws therefore wisely provide for executive officers whose duties are carefully defined and who have vested in them the power to enforce the laws. The faithfulness with which the laws are executed depends on the integrity and character of the officers.

#### The Governor

The Governor is the highest executive officer of the State. His position is one of dignity, power, and influence; it is necessary, therefore, that he be a man who possesses character and executive ability. Delaware's list of Governors is a noble one — one of which she may well be proud; almost without exception the men who have held this high office have been men of integrity, influence, and attainments.

**Term.** — The Governor is elected for a term of four years. This term is long enough to give stability and dignity to the office and to enable the Governor to carry into effect the plans he may make to further the interests

of the people and of the State. The Governor takes his seat the third Tuesday of January of the odd year next following his election. The inauguration of a Governor has become an event of much interest in this State. He may succeed himself in office, but may not be elected for a third time. Each Governor serves through two regular sessions of the General Assembly.

**Election.** — The Governor is elected in the even year every four years on general election day by the voters of the State. Immediately after the election in each district the returns for Governor and Lieutenant Governor must be sealed and sent to the President of the Senate; or if the office of President of the Senate is vacant or if he is absent from the State, the returns must be sent to the Secretary of State, who must transmit them to the President of the Senate when he returns, or to the one who is chosen to fill the vacancy. Duplicates of these returns are also placed in the hands of the Prothonotary of the county in which the election district is situated. When the General Assembly meets in regular biennial session in January following the election, the President of the Senate in a joint meeting of the Senate and House of Representatives opens these returns and makes the contents known. The person who has the highest number of votes for Governor, as shown by these returns, is elected Governor; the person who has the highest number of votes for Lieutenant Governor is elected Lieutenant Governor. If two or more persons are equal in the highest number of votes, the President of the Senate casts the deciding vote.

If the election of a Governor or Lieutenant Governor is contested on the ground of some irregularity in the election or for some other cause, the election is examined into and

the contest decided by a joint committee composed of one third of all the Senators elected and one third of all the Representatives elected to the General Assembly. The members of this joint committee are chosen in each house by the members thereof by ballot. Each member of the committee must take an oath or affirmation that in discharging his duties on the committee he will be true to his trust. The Chief Justice presides over the sessions of the committee, or, in case of his absence or disability, the Chancellor. The presiding officer decides questions concerning the admission of evidence, and upon the request of the committee decides other questions of law which may arise. This investigating committee sits with open doors, and all interested persons may follow the course of the trial. The decision of this joint committee is final; the person in whose favor the contest is decided by them shall be Governor or Lieutenant Governor, as the case may be.

**Qualifications.**—The Governor must be at least thirty years of age. He must have been a citizen of the United States for at least twelve years before the day of his election, and the last six years of that term an inhabitant of Delaware, unless he was absent on the public business of the United States or of Delaware. The Governor should be a man of decision, of liberal mind, of broad education, of high character; one who knows the needs of the State thoroughly and has its best interests at heart. Our best citizens should be chosen to this high office.

**Salary.**—The Governor receives a salary of \$4000 per year (after 1909). This salary cannot be increased or diminished during the period for which he was elected. If the General Assembly increases the salary of the Governor, this increased salary does not go into effect until the beginning of the next term.

The Governor has a suite of offices in the State House at Dover where he transacts his official business.

**The Powers of the Governor** are many and varied. As the head of the State government he is naturally granted important powers which involve considerable responsibility. These important powers are discussed separately in the following pages.

**Appointment of Officers.** — Of all the powers of the Governor, that of appointing certain executive officers is perhaps the most important. The constitution and the laws of Delaware name the officers whom the Governor has the right to appoint. Some of these officers are :

Chief Justice,

Chancellor,

Associate Judges,

Judges *ad litem*,

Justices of the Peace,

Notaries Public,

Commissioners of Deeds,

State Detectives,

Constables,

Special Constables,

Secretary of State,

State Librarian,

Superintendents of Public Schools,

Factory and Workshop Inspector,

Fish Commissioner,

Oyster Revenue Collector,

State Highway Commissioner (p. 73),

Voters' Assistants,

Registration officers,

Trustees for the State on the governing board of Delaware College,

Trustees of Delaware State College for Colored Students,  
Trustees of Delaware State Hospital at Farnhurst,  
Members of State Boards of Medical Examiners,  
Members of State Board of Dental Examiners,  
Members of State Board of Veterinary Medical Examiners,

Members of State Board of Health,  
Members of State Board of Pharmacy,  
Members of State Board of Agriculture,  
Members of State Board of Pilot Commissioners,  
Members of State Library Commission,  
Members of County School Commissions,  
Members of Board of Barber Examiners for Wilmington,  
Members of Division of Public Records,  
Members of Department of Elections for Wilmington,  
Staff officers of the Organized Militia of Delaware.

The manner in which these officers are appointed and confirmed is discussed in the chapter on the Senate (p. 107). After the Senate has confirmed an appointment, the Governor signs a commission which is sealed with the great seal of the State, and hands it to the appointee, thus legally investing him with the powers of his office.

Whenever vacancies occur during a recess of the Senate in offices to which the Governor has the right to appoint, except in the offices of Chief Justice, Chancellor, and Associate Judges, he may appoint persons to fill such vacancies and grant them commissions which expire at the end of the next session of the Senate. If vacancies occur in the office of Chief Justice, Chancellor, or Associate Judge, the Governor must call a special session of the Senate to confirm his appointment before he may grant a commission.

The Governor has the power to fill all vacancies that

occur in elective offices, except those of Lieutenant Governor and members of the General Assembly, by granting to the persons appointed, commissions which expire as soon as the person elected by the people to fill the office is qualified according to law. If a vacancy occurs in an elective office, except in the office of Lieutenant Governor and members of the General Assembly, the people elect a person to fill such office for the full term, usually at the next general election. If, however, the vacancy occurs within two months of the general election, the vacancy cannot be filled by the people until the second succeeding general election; in the meanwhile the duties of the office are performed by the person appointed by the Governor.

To be eligible for election or appointment to an office within a county, a person must have the right to vote for a Representative to the General Assembly, and must have been a resident of that county at least one year next before his election or appointment. Persons holding office in a county may retain their office only so long as they reside in that county, unless the constitution otherwise provides. Through this provision it is made certain that all persons holding county offices will be men interested in the affairs of the county in which their duties lie.

Members of the national Congress, persons holding any office under the United States, excepting attorneys at law and officers usually appointed by the courts, may not, while they retain such position, hold any office of profit or trust in Delaware, unless the constitution otherwise provides. Through this provision the officers of the State are men who can give their undivided attention to its interests.

Offices are said to be incompatible if the same person may not hold more than one of them at the same time.

Under our constitution the following offices are incompatible: Secretary of State, Attorney General, Insurance Commissioner, State Treasurer, Auditor of Accounts, Prothonotary, Clerk of the Peace, Register of Wills, Recorder, Sheriff, Coroner. The duties of these officers are such that no person can hold any two or more of them at the same time and perform thoroughly, justly, and impartially all the work connected with them.

**Removal from Office.** — When any officer shows by his conduct that he is violating his trust, when he neglects the duties of his office and is no longer an efficient public servant, he should be removed. If any officer, except the Lieutenant Governor or a member of the General Assembly, is thought guilty of conduct which would justify his removal, he may be accused by a member of either house in open session. That house then proceeds to examine into the charges and gives the accused officer notice of the charges at least ten days before final action is taken on them. He thus has ample time to prepare and to present his defense. If two thirds of that house sustain the charges, they pass a resolution asking the Governor to remove the officer. The charges are examined in like manner in the other house, and if two thirds of that body vote for the resolution, the joint petition is sent to the Governor, who, on its receipt, removes the officer from his position. By the use of this legal process, public officers false to their trust may be speedily removed.

**Commander in Chief.** — The Governor is commander in chief of the army and navy of the State. As already stated, the State has no standing army, but supports by a small appropriation the Delaware division of the organized militia. He is in direct command of this force except when it is called into the service of the United States.



To aid him in his work in connection with the organized militia he appoints a staff of officers who serve for four years without pay, except the Adjutant General, who receives \$1000 per year. The Governor, as commander of the militia, commissions all the commissioned officers of the militia, is in direct command during the annual encampment, and may call out all or any part of the militia into service whenever the public safety requires such action. In cases of strikes, uprisings, or public calamity of some kind, the local authorities may not be able to handle the situation; the Governor then calls forth the militia to restore order or to assist in relief work.

The State supports no navy, as this would be a needless expense. It does support two guard boats on Delaware bay; one to guard the oyster beds along the Delaware side of the bay shore, and one to guard the sturgeon fishing industry. The Governor appoints those in charge of these boats, and also the officer known as the "oyster police."

**Information from Executive Officers.** — To fulfill his duties properly, the Governor must be in constant touch with the affairs of the State. Whenever he desires information concerning a certain part of the State's business, he may require the head of the proper department to furnish in writing or orally the information he desires. As the law requires most of the executive officers to make to the Governor either an annual or a biennial report, he does not often exercise this power.

**Messages to the General Assembly.** — It is the duty of the Governor to send to the General Assembly at the opening of each regular biennial session a carefully prepared message. In this message he gives it information concerning the affairs of the State, discusses condi-

tions which have arisen or may arise, calls to its attention important matters to be acted upon by it, and above all makes specific recommendations concerning desirable legislation. If there are wrongs to be remedied, public works to be begun, reforms to be instituted, internal conditions to be improved, the Governor calls attention to all these in his message. The interests of the farmers, of the business and professional people, of the laboring people, of the schools, and of other State institutions are discussed, and often legislation for the improvement of their condition is recommended. This message is looked forward to with great interest. It is usually printed for distribution and is always entered on the journals of both houses.

At the opening of each special session the Governor likewise sends a message to the Assembly in which he calls its attention to the matters for the consideration of which it has been called into special session.

During any regular or special session he may send to the Assembly such additional messages as he may think proper. All such messages are entered on the journals of the respective houses.

**Special Session.** — Conditions may arise which make it necessary that certain legislation be passed at once. Under such extraordinary conditions the Governor may call a special session of the Assembly. He issues a formal proclamation in the name of the State, calling together the members of the two houses in special session to consider the important matters demanding their attention. In such proclamation he names the day on which the members are to assemble. On that day he sends them a message, stating the reasons for the special session and outlining the work to be done.

Should the two houses disagree on the matter of adjournment of such a session, he may adjourn them to such time as he may think proper, but such period of adjournment shall not exceed three months. The Governor does not call special sessions of the Assembly unless the business is such that it cannot be safely delayed until the next regular session. The expenses of a session, even though it be short, are large and are a severe drain on the State treasury.

The Governor has the power to call the Senate alone into special session at any time by issuing a formal proclamation. Such sessions of the Senate are termed "extraordinary sessions" and are usually called for the purpose of confirming important appointments made by the Governor.

**Execution of the Laws.** — It is the duty of the Governor to see that all the laws of Delaware are faithfully and impartially administered. Law to be respected must be enforced rigidly and without showing favor to any one; on the firm will and the executive ability of the Governor and on his prompt action will depend largely the respect shown to the laws of the State. If a law is disobeyed by a certain part of the people, he may force them into obedience, even though it be by use of the organized militia. Should disorder arise in any community and the execution of the laws and the usual occupations of the people be interfered with, the Governor may call forth the militia to restore order and to compel obedience. If minor executive officers are remiss in their duties, he may call their attention to such neglect of duty and force them to their work.

**Approving of Bills.** — All bills or joint resolutions, orders, or votes to which the concurrence of both houses is

necessary, except on a question of adjournment, must be presented to the Governor for his approval or disapproval. The veto power is discussed at length in the chapter "How a Bill becomes a Law," p. 121. This is one of the most important powers of the Governor and is the final check on hasty or ill-advised legislation.

**Pardons, Reprieves, etc.** — The Governor has the power to remit fines and forfeitures and to grant reprieves, commutations of sentence, and pardons, except in cases of impeachment, under such conditions as the constitution and the laws of the State may provide. This power and its exercise are discussed in the succeeding chapter, p. 159.

**Gubernatorial Succession.** — Article III, Section 20, plainly shows the regular succession to the Governor's chair in case a vacancy should occur. "In case the person elected Governor shall die or become disqualified before the commencement of his term of office, or shall refuse to take the same, or in case of the removal of the Governor from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Lieutenant Governor; and in case of removal, death, resignation, or inability of both the Governor and Lieutenant Governor, the Secretary of State, or if there be none, or in case of his removal, death, resignation, or inability, then the Attorney General, or if there be none, or in case of his removal, death, resignation, or inability, then the President *pro tempore* of the Senate, or if there be none, or in case of his removal, death, resignation, or inability, then the Speaker of the House of Representatives shall act as Governor until the disability of the Governor or Lieutenant Governor is removed, or a Governor shall be duly elected and qualified.

"The foregoing provisions of this section shall apply

only to such persons as are eligible to the office of Governor under this constitution at the time the powers and duties of the office of Governor shall devolve upon them respectively.

“Whenever the powers and duties of the office of Governor shall devolve upon the Lieutenant Governor, Secretary of State, or Attorney General, his office shall become vacant; and whenever the powers and duties of the office of Governor shall devolve upon the President *pro tempore* of the Senate, or the Speaker of the House of Representatives, his seat as a member of the General Assembly shall become vacant; and any such vacancy shall be filled as directed by this constitution; provided, however, that such vacancy shall not be created in case either of the said persons shall be acting as Governor during a temporary disability of the Governor.”

### The Lieutenant Governor

Next to the Governor, the Lieutenant Governor is the highest executive officer of the State. While his position is not so responsible as that of the Governor, nor his duties so arduous, his office is one of dignity and honor.

**Term, Qualifications, and Election.** — The Lieutenant Governor is chosen at the same time, in the same manner, and for the same term as the Governor, and the same qualifications are required.

**Salary.** — The Lieutenant Governor receives, besides his salary of \$6 per day as presiding officer of the Senate (p. 108), \$6 per day for each day he attends the sessions of the Board of Pardons.

**Duties.** — The chief duty of the Lieutenant Governor is to act as the presiding officer of the Senate. The Senate is a highly deliberative body, and it is especially

fitting that the Lieutenant Governor should preside over it. Not being a member, he has no vote unless the Senators are equally divided on a question. He presides at all impeachment trials by the Senate except when the Governor or he himself is being tried. According to a provision of the constitution, he is a member of the Board of Pardons. In case of the death, resignation, or inability of the Governor to perform the duties of his office, the Lieutenant Governor takes his place.

## CHAPTER XII

### OTHER EXECUTIVE OFFICERS OF THE STATE

To insure the execution of the laws of the State, many important officers are necessary besides the Governor, whose duties are discussed in the preceding chapter. The duties of other executive officers of the State are explained in this chapter.

#### Secretary of State

The Secretary of State is appointed by the Governor and holds office during the Governor's pleasure. He receives a salary of \$4000 per year.

**Duties.** — The Secretary of State has many and varied duties. Only the most important may be enumerated here.

He is the keeper of the great seal of the State and affixes it to such documents as the law authorizes.

He keeps the "executive register." This is a record of all the official acts of the Governor, such as appointments to office, vetoes, etc. He makes out all commissions for public officers (to be signed by the Governor), and affixes to them the great seal of the State.

He issues licenses in blank form to the various officers who are empowered by law to grant them.

He keeps all the enrolled copies of laws passed by the General Assemblies, and after each regular biennial session publishes such laws as have been made at that session.

He is a member of the State Board of Education, of the State Board of Pardons, and of the Board of State Supplies.

He keeps in good order the standard weights and measures deposited in his office, and sees that the duplicates in the hands of the Sealers of Weights and Measures are true and correct.

He passes on all corporation matters and grants certificates of incorporation under the corporation laws of this State.

### State Treasurer

The State Treasurer is chosen on general election day for a term of two years by the voters of the State. He receives a salary of \$1450 per year and five per cent of all franchise taxes collected through his office ; but the total amount of his salary may not exceed \$5000 per year. Out of his salary he pays his clerk.

**Duties.**—The State Treasurer is the custodian of the State's money, and is also the Trustee of the State School Fund, a member of the Board of Pardons, and a member of the Board of State Supplies. All moneys due the State as interest, taxes on corporations and companies, license fees, etc., are placed in his custody. He pays out such sums as may be appropriated by the General Assembly, or provided for under the statute law of the State. As Trustee of the School Fund he determines the amount of the "State dividend" to the schools each year as outlined in the chapter on Education, p. 221.

His accounts are audited each year by the Auditor of Accounts and by a joint committee of both houses of the Assembly. He makes a biennial report to the General Assembly.



### Auditor of Accounts

The Auditor of Accounts is elected for a term of two years at the general election by the voters of the State. He receives a salary of \$2000 a year.

**Duties.** — It is the duty of the Auditor of Accounts to audit annually the accounts of such officers of the State and of the counties as may be designated by law. The accounts of the State officers and of the majority of county officers are audited by him. He also audits the accounts of the local School Commissioners and Boards of Education.

He is also a member of the State Board of Education and of the Board of Pardons.

Other duties of a varied nature are placed on him by the laws of the State.

He makes a complete report to the General Assembly at its biennial session.

### Insurance Commissioner

The State Insurance Commissioner is chosen by the voters of the State on general election day every fourth year for a term of four years. He receives a salary of \$1500 per year as Insurance Commissioner and \$500 per year as Bank Examiner. He is empowered to appoint one deputy whose salary is paid by the State.

**Duties.** — The Insurance Commissioner exercises a general supervision over insurance matters. It is his duty to see that the life, fire, and miscellaneous insurance companies which do business in this State are solvent, that their funds are properly invested, and that the securities are of the right character; in every way it is his duty to see that the insurance companies doing business in this State are

such that the interests of the insured are protected. He requires the insurance companies to furnish him with an annual report.

He collects through his office the revenue arising from the granting of "certificates of authority" to insurance companies, from the sale of licenses to insurance agents, and from the tax on premiums received by insurance companies from citizens of this State. The revenue from these sources is about \$35,000 a year.

The Insurance Commissioner also has general supervision over banks other than national banks, over trust companies, and over building and loan associations. At intervals, according to the law, he is required to examine their condition.

The General Assembly has passed a revenue act requiring all banks, State and National, and trust companies, to pay annually a tax on the capital and the surplus and undivided profits, less the county assessed valuation of the banking house. This tax, collected by the Insurance Commissioner, brings in about \$19,200 a year. The total receipts of this office are about \$55,000.

### Attorney General

The Attorney General is elected on general election day by the voters of the State for a term of four years. He receives a salary of \$2500 a year and may appoint three deputies, one in each county.

**Duties.** — The Attorney General is the prosecuting officer in all cases in which the State is a party. Whenever a person is accused of crime, or in any case in which the State is a party, the Attorney General presents the evidence to the grand jury. He draws up all indictments. In each county he is aided in this work by his deputy in that

county. It can readily be seen that the duties of the Attorney General are both arduous and important.

He is also the legal adviser of the Governor and the other officers of the State in matters pertaining to their duties.

The Governor, when considering a bill presented to him for his signature, may request the opinion of the Attorney General as to its constitutionality.

### **Factory and Workshop Inspector**

The Factory and Workshop Inspector is appointed by the Governor for a term of two years. He receives a salary of \$1000 per year. Child labor laws and the compulsory school law have made this office important.

**Duties.**—It is the duty of the Factory and Workshop Inspector to inspect the factories and workshops in this State in which minors are employed, for the purpose of determining whether due safeguards have been taken to preserve the health and strength of the workers, and whether sanitary conditions prevail. He reports to the Governor, to the Board of Health of Wilmington, and to the State Board of Health, each quarter, or more frequently if he thinks it necessary, the condition in which he finds such factories and workshops.

By an act of the General Assembly, children under the age of fourteen years are generally not allowed to work in factories or workshops. As a rule, children between fourteen and sixteen years of age are not allowed to work in any factory or workshop unless they present to the employer a certificate showing that they have attended some recognized day or night school five times a week for at least twelve consecutive weeks within twelve months of the time when they are employed. This period of twelve weeks may be divided into two periods of six weeks each. The

certificate must be signed by the teacher or teachers of the child. The children between fourteen and sixteen years of age thus employed under a certificate are not allowed to work for more than nine hours a day or more than fifty-four hours in a week, and at least thirty minutes must be given for the noon meal.

A child below the age of sixteen years may be employed in a factory or workshop if it is the means of supporting a widowed mother. In such a case the Factory Inspector issues at his discretion a certificate allowing the employment of the child. The provisions of this child labor law do not apply to any person or corporation engaged in the carrying or preserving of fruits, vegetables, or provisions, or in the carrying on of any agricultural business, or to any person or persons, firm or corporation, engaged in the manufacture of fruit and berry baskets.

It is the duty of the Factory Inspector to visit and inspect all places where goods are manufactured or sold in this State, and if he finds any violations of the child labor law he may prosecute the employer or employers violating the law.

### **The State Library**

The State Library has its present home in the State House in Dover. This library is the repository for the books which are the property of the State. Bound copies of the laws of the General Assemblies, the bound copies of the journals of the two houses at each session, the reports of the decisions of the Judges of the courts, the reports of the various State officers — all these are placed in the State Library. Besides these the State receives from the other States of the United States and from the national government many books and reports. The library at present contains about 45,000 books and pamphlets. The State

usually appropriates \$500 a year to buy law books for the library.

**State Librarian.**—The Library is in charge of the State Librarian, who is appointed by the Governor for a term of two years at a salary of \$800 per year.

The Library is used mostly by the State officers and by attorneys, but private citizens would not be denied the reasonable use of the books.

The Librarian is also the secretary of the State Library Commission, and the custodian of the State House.

### Notaries Public

Notaries Public are officers legally authorized to take depositions and affidavits to be used in this State and to take acknowledgment of deeds and other instruments. Notaries Public are appointed by the Governor for a term of four years and are commissioned by him. They are paid wholly by fees. The law provides for fifty-five general Notaries for New Castle county, five for Kent, and five for Sussex county. Every bank or trust company in the State is also entitled to a Notary Public. By act of the General Assembly the Governor may be authorized to appoint additional Notaries. Whenever a Notary is appointed for some bank or trust company, his power is limited to such papers as directly concern the bank or trust company for which he is appointed.

As a general custom, there is at least one Notary Public in each Representative district. Every Justice of the Peace has also the powers of a Notary Public.

### Commissioners of Deeds

The Governor has the power to appoint Commissioners of Deeds for the State of Delaware in the other States of

the United States. These Commissioners of Deeds are appointed for a term of four years and are paid only by their fees.

It often becomes necessary that persons in near-by or perhaps in distant States shall make depositions or affidavits for use in this State. It would be unjust to compel such persons to appear before a Justice or Notary in Delaware, hence the Governor is empowered to appoint these Commissioners in the States of the United States, with power to take depositions and affidavits to be used in this State, and also to take the acknowledgment of deeds and other instruments.

### **Commissioner of Fish and Fisheries**

The Commissioner of Fish and Fisheries is appointed by the Governor for a term of two years. He receives a salary of \$500 per year.

**Duties.** — It is the duty of the Fish Commissioner to receive from the United States Fish Commissioner or from any other source, any eggs, fry, or other forms of food fish and distribute them in the waters of Delaware in as nearly equal proportions as may be. He has general supervision of the fishing rights of the State of Delaware, and it is his duty to enforce the laws of the State pertaining to fish and fisheries. He is empowered to arrest persons violating such laws.

### **Oyster Revenue Collector**

The Oyster Revenue Collector is appointed by the Governor for a term of two years. He receives a salary of \$700 a year.

**Duties.** — It is the duty of this officer to collect the revenue arising out of the oyster planting and fishing

industry. The oyster industry in the bay has become important. The revenue comes from four sources: oyster plantation revenue, tonnage on boats on oyster plantations, tongers' licenses, and licenses for menhaden boats.

It is his duty to enforce the laws of the State concerning oyster plantations and the taking up of oysters. The State oyster guard boat which patrols that part of the bay in which the oyster beds are situated is under his control, and he appoints the crew of the boat.

### State Detectives

There are two State Detectives. They are appointed by the Governor for a term of two years and each receives a salary of \$1200 a year.

It is their duty under the direction of the Attorney General to ferret out crime, and they may make arrests throughout the State. Requisitions for the return of persons arrested in other States and wanted in this State are served by them whenever such requisition papers are issued by the Governor.

### State Chemist

The person occupying the chair of Professor of Chemistry in Delaware College is, *ex officio*, State Chemist. As State Chemist he has his laboratory at Delaware College. He is paid by fees which the law fixes.

It is the duty of the State Chemist to analyze annually samples of all fertilizers sold or offered for sale in this State. In April and in August of each year he publishes the results of his analyses in two newspapers in each county of the State. Every package of fertilizer sold in the State must have the State Chemist's analysis printed on it.

### State Boards and Institutions

Various executive powers of the State are vested in Boards provided for by the constitution or created by acts of the General Assembly.

#### State Board of Pardons

Under certain conditions it is wise and just to pardon persons who have been sentenced, to shorten their term of imprisonment, or to lessen the fine which may have been imposed. A person may have been accused, tried and imprisoned for an offense, and evidence may later be discovered which proves him innocent. In such case there should be some way to free him from prison. A person sentenced to death on being found guilty of a capital crime, may desire a little longer period of life in which to discover new evidence in his favor or for some other reason. In such case there should be provision that a reprieve or stay of execution can be granted. It not infrequently happens that imprisoned persons show by their conduct in the jails that they have fully repented and have determined to lead better lives. As our prisons are places of reformation as well as of punishment, there should be some provision by which the term of imprisonment of such persons may be shortened or by which they may be set free. It is not an infrequent occurrence that the close confinement of a prison destroys the health of a prisoner, and if the term is sufficiently prolonged, it may cause his death. In such cases, also, it is sometimes wise to release the prisoner.

To meet the necessities arising out of such cases the constitution provides that the Governor may act in some cases alone, in others in conjunction with the State Board of Pardons. But no pardon, reprieve, or commutation of sentence may be granted in impeachment cases.



**How Composed.** — The State Board of Pardons is composed of the Chancellor, Lieutenant Governor, Secretary of State, State Treasurer, and Auditor of Accounts. It has been the custom to choose the Lieutenant Governor as president of the Board and the Secretary of State as the secretary of the Board. The Lieutenant Governor receives \$6 per day for each day he serves on this Board; the other members receive no compensation for this service.

The Board holds its meetings on the first Thursday of each month.

**The Granting of Pardons, Reprieves, Commutations, etc.** — The Governor has the power to grant a reprieve for less than six months, or to remit a fine or forfeiture if he thinks it right for him to do so. He may also grant pardons, reprieves for more than six months, and commutations of sentence, but only on the recommendation of the Board of Pardons.

A prisoner, through an attorney or friends, may appeal to the Board for a reprieve, commutation, or pardon, as the case may be, by sending to the Board at least ten days before its meeting a copy of the court proceedings during his trial and a brief prayer or statement giving the reasons why the relief is asked for. The Attorney General and each Judge who sat in the case when it was tried must be given notice of an application to be filed. The fact that these Judges and the Attorney General have been notified is shown by their signing the notice. The Board then examines the court proceedings and considers the reasons advanced by the prisoner and his attorney or friends. The Board may call on the Attorney General for additional information. If after due deliberation it decides to grant the request, the Board authorizes the Governor to issue the reprieve, commutation of sentence, or pardon.

### State Board of Agriculture

The State Board of Agriculture is composed of three Commissioners, one from each county, appointed by the Governor for a term of three years. Not more than two of them may be of the same political party. For their services the Commissioners receive each \$4 per day and actual traveling expenses for not more than twenty days in each year.

The Board chooses each year a corresponding secretary upon whom devolves a large share of the work of the Board. The Assembly provides by enactment a certain sum for the use of the Board each year.

**Duties.** — As the wealth of Delaware is largely centered in its agricultural interests, the work of this Board is very important. Its chief duty is "to abate, suppress, eradicate and prevent . . . the San Jose scale, peach yellows, pear blight, and all other contagious and infectious and injuriously dangerous diseases of fruit trees, plants, vegetables, cereals, horses, cattle and other farm animals; to devise and execute measures necessary for the development of the agricultural interests of the State; to devise such plans for securing immigration to this State of industrious and useful settlers as it may consider advisable, and to execute such plans in the manner prescribed by law . . ."

To accomplish this work the Board has the power to appoint such inspectors of orchards, agents, etc., as may be necessary; the expenses of the Board for a year, however, must not exceed the appropriation for this purpose made by the General Assembly for that year. The Board at intervals sends inspectors to examine the orchards, etc., throughout the State to detect and mark trees which are diseased. Such trees should be dug up and burned. To

prevent diseased trees or shrubs from being sent into this State, all nursery stock sent into the State must bear a certificate showing that it was examined by the proper officer in the State from which it was shipped, and that it is free from diseases. Nursery stock shipped from nurseries in this State must bear a similar certificate.

The Board encourages the immigration of desirable settlers by sending out pamphlets containing information concerning the State.

The Board also diffuses information among the agriculturists of the State through the Farmers' Institutes by appointing a Director to coöperate with the Institutes held in each county several times a year by the local agricultural societies or granges. The officers of the Board, the members of the staff of the Experiment Station, and successful farmers address these Institutes; conferences are held, opinions interchanged, and experiences are related.

### State Library Commission

The State Library Commission is a body created by the General Assembly for the purpose of promoting the establishment of public libraries and to exercise a general supervision over them. The Commission has nine members appointed by the Governor for a term of five years. The State Librarian is the secretary of the Commission, but has no vote. The members receive no compensation except their necessary expenses incurred in attending the meetings.

The Commission has general supervision over all the libraries in this State established under the act of the General Assembly encouraging such libraries. It may spend a sum not exceeding \$700 a year in carrying on this work.

The library law provides that each school district in the State may also become a library district. These districts are divided into seven classes, depending on the amount raised for school purposes by local taxation. The school voters in a district may ask the Board of Education to hold a special election for the purpose of deciding whether or not the district shall have a library. If the voters decide to have a free library, they elect a local Library Commission, the number of members of which is determined by the class in which the district is. The local Board of Education or School Committee must then levy an additional tax not less than the minimum sum laid down in the law for a district of that class. The local Library Commission then notifies the State Library Commission that the district has complied with the library law. The State Library Commission, on receipt of this notification and after ascertaining its correctness, notifies the State Treasurer, who pays out of the State funds to the local Library Commission a sum equal to one half the minimum sum required to be raised in the district by taxation.

In this way each school district in the State can have a free library. Some districts have complied with the requirements of the law and have libraries, but more interest should be awakened in the districts throughout the three counties.

The State Library Commission has now a number of "traveling libraries," which it sends all over the State. These libraries usually have fifty well-chosen books packed in a strong case. Most of them have been presented to the Commission, but it is adding new libraries each year by purchase. These libraries are sent to such schools, academies, granges, lodges, clubs, etc., as comply with the simple requirements of the Commission. Through these

libraries, the rural districts may have access to a good collection of books at absolutely no cost.

The work of the Commission is of growing importance. The Commission makes a biennial report to the General Assembly.

### State Board of Health

The State Board of Health is composed of seven physicians: three from New Castle county, two from Kent county, and two from Sussex county. The members are appointed by the Governor, and the term of one from each county expires every two years. They receive no compensation except their necessary expenses. They choose a secretary who may or not be a member of the Board, who receives an annual compensation fixed by them, and who holds office until removed by the Board.

This Board holds stated meetings at least once every six months; four members constitute a quorum. The Board of Health has the power to encourage the establishment of local Boards of Health, and may require reports from them. It may also require reports from public institutions and may at any time make inspections of hospitals, prisons, asylums, and almshouses. It may abate public nuisances, take measures to stop the spread of contagious and infectious diseases, and may employ agents to carry out its orders.

By an act of the General Assembly a Pathological and Bacteriological Laboratory has been established at Delaware College. This laboratory is under the supervision of the State Board of Health. At its annual meeting the first Thursday of April the Board elects a Pathologist and Bacteriologist and fixes his salary. All physicians, dentists, and veterinary surgeons may send blood, sputum, and other specimens to the laboratory at Newark for exami-

nation ; the Pathologist and Bacteriologist makes the examinations without cost to the sender, and reports to him the result of the test. The Attorney General may also send an organ or organs of a human body to the laboratory for examination and may require a report.

The General Assembly provides an appropriation of \$2500 to meet the expenses of the State Board of Health.

### **Board of State Supplies**

The Governor, Secretary of State, and State Treasurer are the members of the Board of State Supplies. Any two constitute a quorum.

This Board buys all the supplies of the State, including stationery, printing, paper, and fuel used in the Legislature and other departments of the State government ; it has control of the printing, binding, and distributing of the laws, journals, official reports, and all other State printing and binding, and of the repairing, furnishing, and heating of the State House.

All State officers and Boards must annually in the month of March certify in writing to the Board of State Supplies the amount, kind, and quality of the supplies it will need for the ensuing year. The Board then advertises for bids and awards the contracts for the needed supplies.

### **Division of Public Records**

This State, with a history reaching many years into the past, has valuable State and county papers of historical and legal interest. These papers, if not cared for by approved methods, will crumble and thus be lost. A Division of Public Records has therefore been created by the General Assembly, to collate, catalogue, and prepare for preservation valuable State and county papers and records.

The Division of Public Records is composed of six persons, two from each county, appointed by the Governor for a term of two years. They serve without pay.

### **Board of Pilot Commissioners**

The Board of Pilot Commissioners is composed of five persons who are acquainted with the navigation of the Delaware bay and river. The members are appointed by the Governor for a term of five years. The Board holds its meetings in Wilmington on the first Mondays of May and November; three members constitute a quorum.

According to the laws of the State, every ship over a certain size that goes up Delaware bay and river must have on board a licensed pilot. It is the duty of the Board of Pilot Commissioners to examine persons who desire pilot licenses. According to the law there may be at no one time more than forty pilots of the first class and ten pilots of the second class. The fees which pilots may charge for taking ships up or down the river and bay are fixed by law.

### **Medical Council of Delaware and State Boards of Medical Examiners**

The Medical Council of Delaware is composed of the Chief Justice and the Presidents of the two State Boards of Medical Examiners. Each member receives \$5 per day and necessary expenses for no more than three meetings a year. The Council holds at least two meetings a year, at which it grants certificates for license to persons recommended by the State Boards of Medical Examiners.

There are two Boards of Medical Examiners: one to represent "The President and Fellows of the Medical Society of Delaware," and one to represent "The Homeopathic Medical Society of Delaware." Each Board has

five members chosen by the Governor for a term of two years from nominations made by the respective medical societies. Each Board holds at least two stated meetings a year, and a majority constitutes a quorum. The members of the Boards receive each \$5 per day and necessary expenses for no more than five meetings per year. The State Treasurer pays to the treasurer of the Medical Council \$300 per year to meet the expenses of the Boards.

Every person to practice medicine or surgery in this State must be a graduate of some approved medical school and must be properly licensed, usually after taking the examinations of one of the two Boards and paying a fee of \$10. The questions asked by each Board in such examinations must be previously submitted to the Medical Council for approval. Each Board notifies the Medical Council of the names of the applicants who successfully pass the examinations. The Medical Council then, at its discretion, grants to the applicant a certificate for license which enables him to secure from the Clerk of the Peace of any county a license to practice medicine in the State.

The Medical Council may for sufficient cause revoke the license of a physician. It may, on recommendation of either Board, grant to a physician who has been examined successfully by the Medical Board of another State a certificate for license on the payment of a fee of \$50.

### **State Board of Dental Examiners**

The State Board of Dental Examiners consists of five reputable dentists appointed by the Governor for a term of four years. The Board holds stated meetings at least once every three months.

It is the duty of this Board to examine such persons as



desire to practice dentistry in this State. Every applicant must pay a fee of \$10 to the Board, and if he passes the examinations successfully, he is granted a certificate and may secure a license. No person may practice dentistry in this State who does not possess the required license.

### **State Board of Pharmacy**

The State Board of Pharmacy is composed of five licensed pharmacists, appointed by the Governor for a term of five years. The Board elects from its membership a president and a secretary. It meets at least four times a year. The secretary receives a salary not exceeding \$150 a year and his necessary expenses. The other members receive \$5 per day for each day spent in their official duty, but no member may receive more than \$300 per year.

It is the duty of the Board to enforce the laws of the State concerning pharmacists. It examines all persons who desire to act as pharmacists or assistant pharmacists, and licenses such as it may deem qualified under the law, for a period of three years.

### **Board of Veterinary Medical Examiners**

The Board of Veterinary Medical Examiners has three members appointed by the Governor for a term of three years. They receive no fixed compensation. The Board meets at least twice a year.

This Board examines persons who wish to practice as veterinarians, provided they have a diploma from some school of veterinary medicine which is acceptable to the Board. Such persons as pass the examinations are licensed by the Board to practice as veterinarians in this State. Each person licensed must pay a fee of \$10 for the use of the Board.

### Delaware State Hospital

The Delaware State Hospital is situated at Farnhurst. It is an institution devoted to the care of the insane, the feeble-minded, and tuberculosis patients from the State.

**Board of Trustees.** — The institution is under the control of a Board of Trustees. There are three members from each county, one of whom must be a physician, and not all of whom may be of the same political faith. The members of the Board are appointed by the Governor for a term of three years. They receive \$4 per day and 3 cents per mile for each mile traveled going to and returning from the meetings; but such compensation may not be given for more than twelve meetings a year.

The Board holds its stated meetings on the first Thursday of every month, and five members constitute a quorum.

It is the duty of the Board to make rules and regulations for the government of the institution, and it appoints the necessary officers, such as physicians, stewards, matrons, nurses, attendants, and such other help as may be necessary.

**Support of the Institution.** — The General Assembly makes a biennial appropriation for the support of the institution. The farm connected with the institution provides some of the necessary supplies. Some of the patients pay a certain sum per day for each day they are in the Hospital. The Trustees make a biennial report to the Governor, showing the condition of the institution and the manner in which the funds have been expended.

**Admission.** — Persons may be committed to the Hospital by the Chancellor or by any court of the State. Persons may also be admitted on the certificate of two reputable physicians of the county in which the patient resides, in

which certificate they state that they have each separately examined the patient and found him insane. This statement must be sworn or affirmed to before a judicial officer. The certificate must be accompanied by an order for admission signed by one or more Trustees. Certain persons may ask for admission themselves, and at the discretion of the physician in charge may be admitted on the payment of \$2 per day.

### **Organized Militia of Delaware**

There are two reasons why the people or part of them should be drilled in military maneuvers and in the use of arms.

First, it may happen in time of war that the regular army of the United States may not be strong enough to defend the interests of the nation; then there should be some trained reserve force that can be called out.

Second, a disturbance may break out within the State which the regular peace officers cannot subdue; the Governor should then have at his disposal an armed force that may be called out to restore order.

For these reasons the General Assembly has provided for what is known as the organized militia of Delaware. This is composed of men engaged in the usual occupations, but who once a week or oftener assemble to drill and study military science and art. It is well for young men to ally themselves with this organized militia. Membership therein is an expression of love for country, and the training gives to the officers and men moral as well as physical erectness.

**Organization of Militia.** —The Governor by virtue of his office is Commander in Chief of the organized militia (see p. 143). The General Assembly passed an act in 1907

under the provisions of which the militia is organized and governed. The militia comprises one regiment of infantry, of not more than 675 men, including the usual officers. The company officers are chosen by the members of the company; the regimental officers are chosen by the commissioned officers of the companies; the staff officers are appointed by the Governor, who also commissions all the commissioned officers of the militia.

**Enlistment.** — All able-bodied male citizens of this State between the ages of eighteen and forty-five are eligible for enlistment in the militia.

**Support.** — The arms, ammunition, and certain other supplies for the militia are provided by the United States government. The General Assembly makes an appropriation of about \$7500 a year for the use of the militia. The commissioned officers of a company receive a small allowance to aid in paying for their uniforms; the enlisted men receive no pay.

**Drill and Encampment.** — Each company meets at stated intervals at its arsenal to drill and to study the manual of arms. It has been the custom to hold an encampment of the militia for about six days each year for the purpose of training the men in field maneuvers. During the encampment the officers and men are paid according to a fixed scale.

**Service.** — It is very seldom that it becomes necessary to call the militia into actual service; but when the necessity arises, the Governor may call out any or all of the companies in the regiment.

## CHAPTER XIII

### THE DELAWARE COURTS

COURTS are established to administer justice. If a man is accused of a crime, if there is a dispute between two parties, if there is any point of law in dispute, any wrong to be righted, it falls to the courts to try the cause and to administer justice according to the law. The courts are a very ancient institution. In the earliest times of the world's history the head of the tribe or the king was the interpreter of the law as well as the lawmaker; all disputes were brought to him for settlement, all persons accused of crime were tried by him. As time went on, men came to believe that no one man was able at all times and in all causes to administer justice. Bad kings or chiefs misused their power. As a consequence, the people demanded that crimes and disputes should be tried by a body of their fellow-men rather than by one man. The rulers did not give up their right without a struggle; but even in early times we find legal bodies resembling our present courts. There is no civilized country to-day which does not have some system of courts.

**The Delaware Courts.** — Our system of courts in Delaware is modeled largely after the system in old England; but our different needs have made some changes necessary. The present judicial system was established by the constitution of 1897. This constitution vests the judicial power of our State in the following courts:

Supreme Court,  
Superior Court,  
Court of Chancery,  
Orphans' Court,  
Court of Oyer and Terminer,  
Court of General Sessions,  
Register's Court,  
Justices of the Peace.

Inferior courts may be established by the General Assembly whenever two thirds of the members of both houses think such additional courts necessary. The Municipal Court of Wilmington (p. 53), and the judicial powers of certain town officers (pp. 28, 29), have already been described.

**The Organization of a Court.** — A court is an organized body, whose proceedings are marked by dignity and impartiality. The machinery of a court is very complex. We shall examine only into the duties and powers of the important officers of the court. The chief officers are :

The Judges,  
The Jury,  
The Attorney General and Deputies,  
The Attorneys at Law,  
The Clerks,  
The Stenographers,  
Sheriff, Coroner, Crier.

**The Judges** are the most important officers of the court ; in fact, the Judges of our courts are in many respects the most important officers of our commonwealth. Their position is one of great dignity and honor, and they are the interpreters and expounders of our laws. So long as our Judges are strong, fearless, wise, impartial men, so long

will men be able to secure justice. It has often been remarked, by foreign writers on government in the United States, that in no other country in the world are such capable, trustworthy, and honorable men on the bench.

There are six Judges for the courts, — namely, the Chief Justice, the Chancellor, and four Associate Judges. The Chancellor, Chief Justice, and one Associate Judge may be appointed from and reside in any part of the State. The other three Associate Judges may be appointed from any part of the State, but one of them must reside in each county. Not more than three out of the five law Judges in office at any one time may be appointed from the same political party. The Judges are appointed by the Governor for a full term of twelve years, no matter whether the vacancy occurs by expiration of term or otherwise. The appointment must be confirmed by the Senate; if the Senate is not in session, the Governor must call a special session for the purpose within thirty days after the vacancy occurs. The Chief Justice and Chancellor receive each a salary of \$4500 per year, the Associate Judges \$4000 per year. They may hold no other office of profit.

It is the duty of the Judges to hold the courts, decide points of law, determine what evidence shall be admitted, and at the end of the trial instruct the jury upon the law in the case. It is their duty to discharge persons found not guilty, and to pronounce sentence on those found guilty. It is the particular duty of the Judges to secure an impartial trial for both parties. Besides these, the laws of the State have vested in them many other important duties.

**Trial by Jury.** — The constitution guarantees to every man accused of crime an impartial trial. Most civil and

criminal cases are tried by jury. The persons who may be drawn as jurors in each county are selected by Jury Commissioners. Two Jury Commissioners for each county are chosen by the Chief Justice and the four Associate Judges in the month of March each year for a term of one year. They receive \$10 each for every jury drawn by them.

All persons qualified to vote at the general election may be called upon to serve as jurors, except public officers of this State or of the United States, attorneys at law, ordained ministers of the Gospel, officers of colleges and teachers of public schools, practicing physicians, surgeons and pharmacists regularly licensed, cashiers of incorporated banks, and all persons over seventy years of age. All persons drawn as jurors must serve unless for some urgent reason they are excused from service by the court. Persons drawn as jurors receive a fee for each day they are in service.

**Grand Juries.** — Before a man accused of crime may be tried by a petit jury, the charges against him must have been examined by a "grand jury," and a "true bill" found.

A grand jury is composed of twenty-three men. The Jury Commissioners for each county in December of each year select from the citizens of their county the names of one hundred sober and judicious persons to serve (if summoned) as "grand jurors." These names are taken from the various Representative districts in such proportion as the Commissioners think proper, and the names from each district are placed in a box marked "Grand Jurors." Fifteen days before the commencement of the first session in each year of the Court of General Sessions of their county, the Commissioners draw from these boxes the names of twenty-four persons, apportioned as equally as may be among the Representative districts. One of these



men is excused by the court, so that the grand jury may not be equally divided on a question. The remaining twenty-three act as the grand jury for the courts held in the county during the following year. Persons drawn as grand jurors are notified in writing by the Sheriff of their county within five days of the ensuing term of the Court of General Sessions.

The chief duty of the grand jury is to examine the evidence against persons accused of crime and then to determine if it is sufficient to warrant a trial. The Attorney General of the State furnishes the evidence against the accused person. If the grand jury decides that the evidence is sufficient, it finds a "true bill" against him and he is tried. If it considers the evidence insufficient, the bill is "ignored."

**Petit Juries.** — A petit jury is composed of twelve men for the trial of both civil and criminal cases.

The Jury Commissioners in each county select the names of one hundred and fifty sober and judicious men (excluding all names selected for grand jury service) of their county to serve, if summoned, as petit jurors. The names from each Representative district are placed in a box marked "Petit Jurors." Fifteen days before the commencement of each session of the Court of General Sessions and of the Superior Court, the Jury Commissioners draw from these boxes thirty names in Kent county, thirty in Sussex county, and forty in New Castle county, to serve as petit jurors at the coming session, this number in each county making what is known as a panel. If the Superior Court and the Court of General Sessions sit at the same time in a county, the Commissioners draw only one panel, the men drawn being liable to jury service in either court. No person drawn as a petit juror in New

Castle county serves for more than two weeks unless he has been drawn as a juror in a cause in which a verdict has not been rendered, in which case he serves until discharged by the court. At such other times as the court may designate, the Jury Commissioners draw an additional panel of jurors. For a Court of Oyer and Terminer, sixty-four petit jurors are drawn ; but if the Court of General Sessions or the Superior Court is in session at the same time, then the panel for either of these courts forms part of the panel of sixty-four for the Court of Oyer and Terminer. The Sheriff of each county must give notice in writing within five days to every person drawn as a petit juror.

The names of the persons drawn as petit jurors for a term of a court are written on separate pieces of paper and placed in a box by the Prothonotary or the Clerk of the Peace. Whenever a jury is required by the court for a case, twelve names are drawn from the box. A person thus drawn as a juror may be "challenged" for cause by the attorney for either side of the case, and if the cause is sustained by the court, he cannot serve on the jury, and a new name is drawn. The number of jurors that may be "challenged" and the method are determined by the statute laws.

**The Attorneys at Law.** — In the early days of the courts, certain men, learned in the law, or gifted with power of speech, undertook for a fee to plead the causes of others in the courts. Such great men as Demosthenes, Cicero, and Isocrates were among the early pleaders in the courts, and were the distinguished forerunners of our modern attorney. As the method of procedure in the courts is very complex, the ordinary man finds himself under the necessity of employing some one to undertake his cause. The

meeting of this demand has become the work of the legal profession.

A lawyer or attorney is an officer of the courts employed by a party to defend or prosecute his rights. To become an attorney, a man must have been a student of law for at least three years under the direction of some attorney who has practiced at least ten years, must be twenty-one years of age, must be a resident of the State, and must pass an examination before a Board of Examiners appointed by the Superior Court. If he passes these examinations, he is formally sworn in as an attorney and is qualified to practice in the courts of this State. Should he abuse his privileges or be guilty of conduct unbecoming an attorney, he may be disbarred by the Judges and thus be prevented from exercising the duties of an attorney. As his client's cause is in his hands, it is very necessary that an attorney should be a man of high moral and intellectual attainments.

**Clerks.** — Each court has a clerk whose duty is to keep a record of its proceedings, issue such papers as his court may direct, and keep on file in his office the records of the trials, verdicts, sentences, judgments, and fines of his court.

**Stenographers.** — The Superior Court has as one of its officers an official stenographer. It is his duty to attend all the sessions of the court in the three counties, and keep a careful record of all evidence, opinions, and other matters, as the court may order. These records are preserved and referred to when any matter included in them is in dispute. The stenographer is appointed by the Court, and may be removed at any time by the court.

The Chancellor may also appoint a stenographer for the Court of Chancery.

**Other Officers.** — The Sheriff and Coroner are important

officers of the court (see pp. 70-72). The court appoints a crier, who opens and closes court at the order of the Judges, and tipstaves, who preserve order.

### The Supreme Court

The Supreme Court is the highest court of the State. It is a court of appellate jurisdiction, that is, it hears appeals in causes that have been tried in a lower court. It has no jurors.

**How Composed.** — The Supreme Court upon writ of error to the Superior Court, Court of Oyer and Terminer, or Court of General Sessions, or upon appeal from the Court of General Sessions, consists of the Chancellor and such of the five other Judges as did not sit in the case in the lower court. The Chancellor presides, or in his absence the Chief Justice; if both are absent, the senior Associate Judge present presides. Any three of the Judges qualified to sit in the case constitute a quorum, and one may open and adjourn court.

The Supreme Court, upon an appeal from the Court of Chancery, consists of the Chief Justice and the four Associate Judges. The Chief Justice presides, or, in his absence, the senior Associate Judge.

Whenever, for legal or other reasons, no three of the Judges are able to sit in a cause, the Governor appoints a "Judge *ad litem*" to sit in the cause, whose commission expires when the cause is determined. It is seldom that the appointment of such a Judge becomes necessary.

**Terms.** — There are two terms of the Supreme Court each year, the first commencing on the third Tuesday in January, and the second on the third Tuesday in June. The Chancellor may call special sessions when necessary. The court holds its sessions in Dover.

**The Clerk of the Supreme Court** has power to issue all process from the Supreme Court, and keeps in his office at Dover all the records, books, and papers belonging to the court. He is appointed by the Governor for a term of four years. It has been the custom to appoint the Prothonotary of Kent county as the Clerk of the Supreme Court. The Sheriff of Kent county is by law designated as the officer to execute the process and orders of this court.

**Jurisdiction.** — There is but one Supreme Court for the State, to which all appeals from the various counties are carried. Its decisions are final. Its jurisdiction is defined in the constitution. 1. It may issue writs of error to the Superior Court, and may determine finally all matters in error in the judgments and proceedings of the Superior Court. 2. On the application of the accused after conviction and sentence, it may issue writs of error to the Court of Oyer and Terminer and to the Court of General Sessions in all cases in which the sentence is death, imprisonment exceeding one month, or fine exceeding one hundred dollars, and in such other cases as are provided by law. It determines finally all matters in error in the judgment and proceedings of the Court of Oyer and Terminer and the Court of General Sessions; but it can issue no writ of error to the Court of General Sessions in cases of prosecution for election offenses. 3. It may receive appeals from the Court of General Sessions in bribery cases, etc., as outlined in Article V, Section 13, of the constitution. 4. It may receive appeals from the Court of Chancery.

### **The Superior Court**

The Superior Court holds sessions in each of the three counties. The Prothonotary of each county is the clerk

of the Superior Court sessions held in his county, and the Sheriff of each county executes the process and orders of this court.

**How Composed.** — The Chief Justice and the four Associate Judges are the Judges of the Superior Court. These five Judges meet in the spring or summer of each year and decide which of them shall hold the Superior Court in each of the three counties. Whenever possible three Judges sit in the Superior Court, but not more than three may sit at one time. As only two Judges are necessary for a quorum, it is possible to hold sessions of this court in two counties at once. Whenever it is impossible to secure a quorum, the Governor may appoint a Judge *ad litem*, whose commission expires when the cause is determined.

**Sessions.** — The Superior Court holds four sessions in Sussex county each year, beginning on the first Monday in February, the first Monday in April, the last Monday in June, and the first Monday in October. It has four sessions in Kent county each year, beginning on the third Monday of February, the third Monday in April, the first Monday in July, and the third Monday in October. It has five sessions in New Castle county each year, beginning on the first Monday in January, the first Monday in March, the first Monday in June, the third Monday in September, and the first Monday in November.

At the June term in Sussex county and at the July term in Kent county no jury is summoned, but matters of fact in dispute may be tried by the court if the parties concerned in the cause agree. In this case the Judges give a decision, upon which judgment is rendered as upon a verdict by a jury.

The sessions for New Castle county are held at Wil-

mington ; for Kent county, at Dover ; for Sussex county, at Georgetown. The Judges may on account of an epidemic of disease or for some other good cause appoint a different place for the sessions, until the cause for changing the place is removed.

The Chief Justice may call a special session of the Superior Court in any county whenever the majority of the Judges of that court think it necessary.

**Jurisdiction.** — The jurisdiction of the Superior Court extends over the whole State. Matters of a local nature must be begun and tried in the county in which they arose. A court is said to have original jurisdiction over all cases which the law requires shall be begun and tried in that court. A court is said to have appellate jurisdiction over all cases which may be appealed to it from lower courts.

The Superior Court has original jurisdiction in all causes of a civil nature, real, personal, or mixed, and over such other causes as the law may provide. It has appellate jurisdiction in causes appealed from the Orphans' Court, Register of Wills, and Justice of the Peace, and in cases of sequestration of property by Trustees of the Poor.

The Superior Court is the busiest court in the State, because its original jurisdiction is so extensive. It is not necessary to enumerate all of the causes over which this court has jurisdiction, and only the most important will be mentioned. 1. It has jurisdiction in all civil causes, such cases as arise from the partition of real estate, the non-payment of debt, breach of contract, the recovery of real or personal property. 2. The Superior Court when sitting, or any Judge in vacation, may issue writs of "habeas corpus," and the court may issue other writs which may be necessary to bring to trial cases over which it has

jurisdiction. 3. Cases concerning apprentices or indentured servants are tried in this court. 4. The Superior Court alone has the power to annul or affirm marriages and to grant divorces. 5. It has jurisdiction over cases involving dower rights. 6. It may take the acknowledgment and proof of deeds in certain cases. 7. It may upon proper proof direct the entry of satisfaction of mortgages and judgments. 8. The Superior Court of each county approves the bonds of the Coroner, Register of Wills, Recorder of Deeds, Prothonotary, Clerk of the Supreme Court, Clerk of the Peace, and the Clerk of the Orphans' Court. 9. It has jurisdiction over the laying out of ditches. 10. Whenever a person owning a mill has his water supply injured by the building of a dam, mill race, or pond by some other person, on his petition the court orders a jury of twelve men to examine into the cause, and if the jury finds that the mill owner has been injured, the Superior Court orders the destruction of the dam, pond, or mill race that is the cause of the injury. 11. The Superior Court canvasses the election returns. 12. It may under certain circumstances compel relatives to support their indigent kin. 13. Issues from the Orphans' Court, Court of Chancery, and the Register may be tried by the Superior Court.

For appeals to the Superior Court from the Orphans' Court, see pp. 187, 188 ; from the Register of Wills, p. 188 ; from a Justice of the Peace, p. 189.

**Appeal from Sequestration by Trustees of the Poor.** — It sometimes happens that parents desert their children, or that a husband deserts his wife, and that the deserted ones become a charge upon the county. In such cases, the Trustees of the Poor may take the property of the deserting parents or husband, and sell it for the support of the



deserted ones. A person whose property has been so seized may appeal within one year to the Superior Court, which has the power to confirm or to amend or correct such proceedings of the Trustees of the Poor. Should the court decide that the seizure was unjustly made, they order the return of the proceeds of the sale, or make any order that they may think just.

### Court of Chancery

The Court of Chancery holds sessions in each of the three counties. Delaware is one of the three States in the United States which still have separate Chancery Courts.

**How Composed.** — The Chancellor is the Judge of the Court of Chancery.

**Sessions.** — The Chancellor holds two sessions of the Court of Chancery in New Castle county each year, beginning on the fourth Monday in March and the second Monday in September. He holds four sessions in Kent county, opening on the third Monday in March, the second Monday in June, the third Monday in September, and the second Monday in December. He holds four sessions in Sussex county, opening on the second Monday in March and the first Monday in June, September, and December. The Chancellor may hold adjourned sessions in each county at his discretion. The Chancellor's court is peculiar in this, that the Chancellor may hold court and give decisions at any time and place.

**Jurisdiction.** — The Court of Chancery has full power to hear and decree all matters and causes in equity in cases where sufficient remedy cannot be had by common law or statute before any other court. The Chancellor, for sufficient cause, grants restraining orders and injunctions.

Appeals may be made from the Court of Chancery to

the Supreme Court of the State. Issues of fact framed by the Court of Chancery must be tried in the Superior Court of the county.

The dual system of two distinct sets of tribunals, — law courts and the Court of Chancery, — administering different rules for the adjudication of causes, originated in England, but has now been changed there. Delaware is one of the few places where the chancery court still exists as a distinct tribunal. Elsewhere, equity jurisdiction is now exercised usually by the same Judges who preside over the law courts.

### **Court of Oyer and Terminer**

The Court of Oyer and Terminer is the court which tries cases of murder or manslaughter, and all crimes punishable by death. This court derives its name from the old English court of the same name.

**How Composed.** — The Chief Justice and the four Associate Judges are the Judges of the Court of Oyer and Terminer. They decide among themselves who shall hold this court in the various counties. Each Court of Oyer and Terminer consists of just three of the Judges; but one may open or adjourn the court. The Chief Justice presides, or in his absence the senior Associate Judge.

**Sessions.** — This court has no regular sessions. Whenever there is a capital crime to be tried in a county, any three out of the five law Judges may sign what is known as a "precept," calling a session of the court in that county. Such precept must usually be issued at least twenty days before the first sitting of the court; but in emergencies, special sessions may be called six days after the precept is signed.

**Jurisdiction.** — This court has jurisdiction over all crimes punishable by death, such as murder in the first degree,

rape, and kidnaping ; of murder in the second degree, of the crime of manslaughter, and of the offense of being an accessory or accomplice to any such crime. Writs of error on the part of the accused lie to the Supreme Court.

### **Court of General Sessions**

The Court of General Sessions holds sessions in each county for the trial of criminal cases not punishable with death.

**How Composed.** — The Chief Justice and the four Associate Judges are the Judges of the Court of General Sessions. These five Judges decide among themselves who shall hold the sessions in each county. Whenever practicable, three Judges sit in this court—never more than three ; but two constitute a quorum, and one may open and adjourn court. The Chief Justice presides, or in his absence the senior Associate Judge. As there are five Judges who may sit in this court, sessions may be held in two counties at the same time.

**Sessions.** — This court has five sessions in New Castle county, four sessions in Kent county, and four sessions in Sussex county each year. The sessions begin on the same day as the sessions of the Superior Court in these counties.

**Jurisdiction.** — This court has jurisdiction over all crimes not cognizable before a Justice of the Peace or inferior courts, and not within the jurisdiction of the Court of Oyer and Terminer. The majority of crimes, such as theft, and housebreaking, are tried in this court. The law of the State has also given it jurisdiction over other causes. 1. In each county it has the power to lay out public roads and to change and vacate the same. 2. It has the sole power to grant application for liquor licenses. 3. It has

jurisdiction over cases of desertion by a husband or a father. 4. In New Castle county this court has jurisdiction in cases of petitions for grading hills. 5. This court appoints each year a number of Fence Viewers in each district.

### Court in Banc

**How Composed.** — A Court in Banc is composed of the Chief Justice and the four Associate Judges. Any four of them constitute a quorum, and one may open and adjourn court. The Chief Justice presides, or in his absence the senior Associate Judge.

**Sessions.** — There are no regular sessions of this court; it is called only when necessary.

**Jurisdiction.** — Whenever a case is being tried in the Court of Oyer and Terminer, in the Superior Court, or in the Court of General Sessions, and a difficult or unsettled point of law arises during the trial, either party interested may ask that the question be decided by a Court in Banc. If the Judges decide that the question involved is one of sufficient importance to warrant the calling of a Court in Banc, they order the calling of such a court, by which the question is decided.

From the decision of a Court in Banc there is recourse to the Supreme Court, which may or may not issue a writ of error.

### Orphans' Court

The Orphans' Court is modeled after the old English court of that name. It holds its sessions in each county and has a general jurisdiction over the interests of orphans.

**How Composed.** — The Orphans' Court in each county consists of the Chancellor and the resident Associate Judge, but either one constitutes a quorum. The resident

Associate Judge in each county holds at stated intervals an Orphans' Court at which he usually sits alone.

**Sessions.** — This court holds two sessions each year in New Castle and Kent counties, and four sessions in Sussex county. The two Judges or either of them may hold adjourned sessions in the counties as conditions may make necessary.

**Jurisdiction.** — This court has jurisdiction over the rights and property of orphans. 1. It has the power to appoint and remove guardians. 2. It has general supervision over the estates of minors. 3. Guardians' accounts must be passed by this court. 4. It has jurisdiction of real estate left by persons who die without leaving a will. 5. It may order the sale of the property of dead persons to pay debts. 6. It may assign dower. 7. It may hear and determine exceptions to accounts of executors and administrators passed before the Register of Wills. 8. It may hear appeals from the decision of the Register of Wills in cases where it is claimed that inventories or lists of debts are imperfect.

**Appeal from Orphans' Court.** — When the opinions of the Chancellor and resident Associate Judge are opposed in any case, or when the decision is made by one of them, or when the decision is made by both of them in matters involving the right to real estate or the value thereof, and in all matters affecting guardians or guardians' accounts, an appeal may be taken to the Superior Court of the county, whose decision is final. If such an appeal is made to the Superior Court, the Associate Judge who sat in the case in the Orphans' Court may not sit in the Superior Court when this appealed case is tried. In all other cases under its jurisdiction the decision of the Orphans' Court is final.

### ✓ Register of Wills' Court

The Register of Wills in each county has the power to hold what is commonly called a "Probate Court." He holds court in his office and is the sole judge.

**Jurisdiction.** — His jurisdiction extends over his county.

1. All wills must be proved in his court. 2. A will having been proved, the Register may grant letters testamentary to the executor or executors named in the will. 3. If a person dies without a will, the Register may appoint administrators. 4. He examines and passes and keeps on record the accounts of executors and administrators.

**Appeal from Register's Court.** — Appeal in all cases may be made from the Register's Court to the Superior Court, whose decision is final. In cases concerning an inventory or list of debts, an appeal may be made to the Orphans' Court.

If the Register is personally interested in any case which comes under his jurisdiction, the Orphans' Court takes jurisdiction instead, and from its decision an appeal may be made to the Superior Court.

### ✓ Justices of the Peace

Justices of the Peace have jurisdiction only in minor cases.

**Criminal Jurisdiction.** — 1. A Justice of the Peace may punish by a fine any person who disobeys the ordinances of a city or town. 2. He may, upon submission in writing by the accused, punish by a fine any person guilty of assault and battery, and may punish other breaches of the peace. 3. He may cause the arrest of drunken and blasphemous persons and may punish them with a fine. 4. He may bind disorderly or unruly persons to keep the

peace. 5. He may commit to prison or hold for trial at the proper court persons who have committed offenses not under his jurisdiction. 6. He may issue warrants for arrest, and certain other writs. All Sheriffs, Constables, and Coroners are required to serve such warrants or papers.

**Civil Jurisdiction.** — Justices of the Peace have jurisdiction over all cases concerning nonpayment of debt, merchandise, remuneration for services, and rent, provided the sum involved does not exceed \$200.

**Appeals.** — Appeals may be taken to the Superior Court from any judgment given by a Justice of the Peace without referee trial for a sum exceeding \$5, exclusive of costs; and from any judgment given by a Justice of the Peace upon the report of referees, for a sum exceeding \$15, exclusive of costs.

## CHAPTER XIV

### IMPEACHMENT AND TREASON

IN choosing officers in this State, the people should, and generally do, use great care in choosing men who will fill their positions in such a way as to further the State's interests and bring honor and credit to themselves. But no matter how much care is exercised, sometimes a person may be chosen who is not able to withstand the temptations to fraud and dishonesty. A man's character may change, and after his election to office he may show himself to be entirely unworthy of the trust that has been reposed in him. It is necessary, therefore, that some way be provided by which a public officer may be called to account for his acts and by which he may be expelled from his office if the charges against him are found to be true.

The constitution provides two ways in which an officer of the State may be removed from office: first, the Governor may remove an officer on petition of two thirds of the members of the Senate and House of Representatives; second, an officer may be formally impeached and if found guilty, be removed from office. The first of these methods is discussed in the chapter on the Governor, p. 142. We shall here consider the cause, manner, and trial of impeachment cases.

**What Impeachment is.** — Impeachment is the formal and solemn accusation of crime or some other misdemeanor in office brought against a public officer. If an officer of the



State neglects his duties, if he persists in using his public trust to his personal advantage, if he allows himself to be influenced in his duties by bribes or promises, if he is appropriating public money to his private use, or if he is accused of any conduct unbecoming a public officer, he may be formally impeached of these crimes or offenses.

**Manner of Impeachment.** — Any member of the House of Representatives may draw up a formal “bill of impeachment,” in which are enumerated the specific charges against the officer. If after due consideration of the charges two thirds of all the Representatives vote for this bill, the officer stands formally impeached of the crime or misdemeanor charged. Should the necessary two thirds not vote for the bill, the officer cannot be tried for these charges, as he has not been formally accused of them. The passage of a bill of impeachment against an officer corresponds to the formal indictment of a private citizen by the grand jury of the county. It is the province of the House of Representatives alone to pass such bills of impeachment. All civil officers, from the Governor down to the least important of the civil officers of the State, are subject to impeachment.

**Trial of Impeachment.** — When a bill of impeachment has been passed by the House of Representatives, the Senate is notified of this action, as the Senate alone tries all such cases.

When the Senate is trying an impeachment case, all the members are under oath or affirmation that they will do justice according to the evidence. This is for the purpose of securing to the accused person a fair and impartial trial. The President of the Senate is the presiding officer at all impeachment trials except when the Governor or the Lieutenant Governor is tried; in such cases, the Chief

Justice presides; or if he is unable to do so, the Chancellor takes his place. When in session trying an impeachment case, the Senators act in the capacity of both judges and jury.

The person accused has the right to be heard in his own defense and may have counsel to conduct his case before the Senate. In most respects such a trial is conducted in the same manner as trials in the regular courts. After the case has been carefully tried, if two thirds of the Senators vote for conviction, the person is declared guilty on the charges for which he was tried. Should the necessary two thirds not vote for conviction, the officer remains in possession of his office and may continue to exercise its duties.

**Punishment of Guilty Persons.** — If the Senate finds any officer guilty of the charges brought against him, it may remove him from office and disqualify him from holding in the future any office of honor, trust, or profit under this State. It cannot imprison or inflict a fine, but if it has once convicted an officer, he may then be tried in the regular courts of the State if he has been guilty of a violation of any statute law; if found guilty by that court, he may be punished according to the law. Thus, if a public officer is accused of embezzling the State's money, he may be formally impeached by the House, found guilty by the Senate, and removed from office and disqualified from holding in the future any office of honor, trust, or profit under the State; then he may be tried in the State courts for embezzlement and be condemned by them to imprisonment and the payment of a fine, as the law on that subject may provide.

**Frequency of Trials.** — The records of the General Assembly do not show that any impeachment trials have taken place in our State. Our public officers have been

men who filled their offices with credit, and in the few cases in which individuals have shown themselves unworthy of the trust reposed in them, their offenses were never sufficiently grave to warrant their impeachment.

**Treason.**—Our constitution defines treason thus: "Treason against this State shall consist only in levying war against it, or in adhering to the enemies of the government, giving them aid and comfort." Private citizens as well as public officers are liable to trial for treason.

Treason trials were very numerous in England at the time the English colonists came to America, and even at a later date. The slightest criticism of the English monarchy was sometimes sufficient basis for accusing a man of treason. Many Englishmen who were really good citizens of their country were condemned to death for treason or deported to some distant possession of England, there to spend their lives in solitude. When the constitution of the United States was framed, the members of the convention, remembering the condition in England, placed in the constitution a clause saying, "treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort." The makers of our State constitution adopted the same provision.

Treason in itself is a very high crime. To be guilty of aiding the enemies of one's country, to betray its interests, to desert its cause in time of need, are deeds that merit the severest punishment. No person, however, can be convicted of treason unless on the testimony of two witnesses to the same treasonable act, or on confession in open court. The maximum penalty for treason is death.

Treason against a State is very rare. The records of our General Assembly and of our courts for many years back do not show that there have been any trials for treason.

## CHAPTER XV

### THE CHOOSING OF ELECTIVE OFFICERS

THE United States constitution guarantees to every State in the Union a republican form of government. In republican governments the will of the people is to be the policy of the government, and this policy is to be carried out by officers chosen directly or indirectly by the qualified voters. Our legislative, executive, and judicial officers are therefore directly or indirectly chosen by the people.

It is evident that the people will not all think alike on questions of public policy, neither will all desire to have the same man in an office. Questions of great importance must at stated times be decided by the expressed will of the people. It is the duty of every good citizen to hold carefully thought out views on the policy of the government, national, State, and local, and at the proper time give expression to his opinion by his vote. It is natural that those who think alike on questions vital to the government should form groups; in the United States these groups of voters are called "parties." The Republican and Democratic parties are the two great parties of our day; but besides these we have the Socialist party, the Prohibition party, and others. Each of these parties has a distinct "platform," or statement of its views, which it changes from time to time to meet new conditions.

It is the aim of each party to have its platform of principles become the principles of the existing government. These principles will be put into practice only by men

holding them and firmly believing in them; hence each party puts forward candidates for the various executive and legislative offices and endeavors by all honorable means to have such candidates elected. By common consent and by practice rooted in wisdom the judicial part of our government has been excluded from party competition.

In State and local government, party principles do not play so important a part as in the national government. The principles of a party are much the same in all the States; the party may, however, in a particular State take a certain stand on matters which concern only that State; likewise on local matters each party may take its own stand. On the whole, we may say it is in national affairs that a party strives for its fundamental principles; in State and local affairs, it is more particularly concerned in placing men from its own ranks in office. The various parties do issue State platforms, but they are mostly for the sake of form. From this it may be seen that a good citizen who invariably votes with his party in national affairs may vote for candidates of other parties for State and local offices. In fact, it is held by many that this is the proper attitude of a good citizen: in national affairs to vote for his principles of government; in State and local affairs for the best men irrespective of party.

Elections are the official machinery by which the people choose from the candidates of the parties the men whom they wish to place in office for a certain time. Elections in the early republics of Athens and Rome were very simple. In our time they have become complicated, and the real method of choosing public officers is little understood by the great body of voters. This should not be so; every good citizen should understand the election system as well as the general scheme of government.

The successive steps generally taken in choosing elective officers are as follows:

1. Choosing of candidates by parties:
  - (a) Party primaries,
  - (b) Party conventions;
2. Party campaigns;
3. Registration of voters;
4. The election proper;
5. The determining of the result of the election.

**Choosing of Party Candidates.**—Each party must have some plan of choosing its candidates for the various offices to be filled, and it must have some organized means of bringing these candidates favorably before the people. Hence each important party has its party organization, its primaries, and its conventions.

**Party Organization.**—The Republican and Democratic parties in Delaware have each a complete party organization; the organization of the minority parties is not so complete and extensive. Each party has through its years of organization developed a series of rules which it observes in the choosing of candidates and delegates, in the appointing of committeemen, and in the holding of conventions and primaries. These rules are changed and modified as the party may see fit.

**Committees.**—At the head of each party is the State Committee, composed of men from the three counties, the number from each county being determined by the party rules. The State Committee of the party chooses a State chairman, a State treasurer, and a State secretary. The State Committee has charge of the party campaigns and is the executive head of the party.

Each party also has in each county a County Committee,

composed of men from various parts of the county. This committee chooses a county chairman, treasurer, and secretary, has charge of the county campaign, and aids the State Committee in the State campaign.

The majority parties have each a district committee to look after the party interests in each Representative district. This committee aids the county and State committees in the party campaign.

**Primary Elections.** — Primary elections are purely party elections ; only members of a party may vote at its primary. These primaries are held whenever they may be necessary, usually before a convention of the party. Primary elections are more important in New Castle county than in Kent and Sussex, for in New Castle county they are regulated by law and serve a more important function.

The method of choosing candidates for office varies in the different parties, neither is it wholly alike in the same party in the three counties. As a general rule, in New Castle county the party chooses the majority of its candidates at primaries in the voting districts, while in Kent and Sussex counties the party chooses its candidates at the county convention. The party candidates for State officers are chosen at a State convention.

Whether the candidates are chosen directly at the primary, or whether delegates only are chosen there, the primary election holds an important place in election machinery. It is here that the real struggle for good government begins. On the kind of delegates the party sends to its convention will depend largely the quality of the men the convention will nominate for the various offices to be filled ; or, if the candidates are voted for directly at the primary, on the interest shown in this election will depend largely whether a good or a poor candidate will be chosen.

It is at a primary election that a party should show its patriotism and public spirit by choosing as delegates and candidates the best men available in the community. The mere fact that a member of a party wishes to be its candidate or delegate should not, as it often does, cause the party to vote for that man. The best men are not forward in presenting themselves as candidates except when urged by their friends. Politicians are often allowed to control primaries for their own advantage, and thus when a good citizen comes to vote at the election proper he may find on his party ticket men whom he thinks not fitted for office. There are few who realize the importance of the primary election; but until every good citizen takes as much interest in the primary in his district as he does in the election itself, so long must we expect some poorly qualified men in office, and to some degree misgovernment.

**Conventions.** — As a rule each party holds a county convention in each county every two years for the purpose of choosing candidates for the various county offices to be filled, and also of selecting delegates to the State convention. The State convention of the party follows the county convention. It formulates a platform and chooses candidates for the various State elective offices to be filled. It is the duty of the county and State committees to carry out the will of their respective conventions.

**Party Campaigns.** — After the candidates for the various offices have thus been chosen, each party begins an active campaign to bring the merits of its principles and its candidates before the people. The cost of conducting this campaign by the committees is defrayed by voluntary contributions by members of the party. The campaigns are usually marked by much speechmaking, public meet-



ings, parades, and other demonstrations to arouse public interest.

**Criticism of Party System.** — The existence of parties is a necessity; in fact, parties are an effective safeguard of our liberties, and, properly managed, they secure for us good government. But we cannot be blind to some very evident defects that have crept into the system. Parties and party management are complex, and because of this complexity, certain evils have arisen. Although on the whole our public officers have been good and true men, yet it is equally certain that poorly qualified men have been known to hold important and responsible offices. The party system is very apt in its practical workings to place too much power in the hands of one man or of a few individuals who often are able to dictate the policy of the whole party.

Experience shows that no party can succeed without organization; an unorganized body, unless it is supported by an overwhelming majority, cannot hope for victory. The question is, therefore, not one of organization, but of men. If the men who comprise the party organization are good citizens and not mere politicians who play the game for gain, if the delegates to the conventions (for conventions also are a necessity) are men with a mind of their own, and not influenced by the work of a party leader, then we may expect the party to have for its candidates men who represent the best element and highest principles of the party. And where are these men chosen? Where is the composition of the party organization decided? At the primary. It is at the primary, therefore, that the struggle for good government begins and centers. The importance of the primary as a determining factor in good government cannot be too strongly emphasized. The efficiency of a State, county, or local government does not depend on

which party is in power, but upon the kind of men the party in power has chosen to fill the offices.

**Registration of Voters.** — The constitution and laws of Delaware provide for a registration, every two years, of the voters qualified to vote at the succeeding general election. This is a measure to preserve the purity of the ballot, and to insure that the result of the election shall be the true will of the majority of citizens qualified to vote.

The Governor appoints, every two years, three registration officers for each voting district in the State except those in the city of Wilmington. One of these is named as the registrar, the others as associates. The three officers may not all come from the same political party. They receive a salary of \$5 per day for every day they are on duty.

It is their duty to conduct the registration in their voting district. They must sit at the voting place of their district at least five separate days preceding the election and must give due notice of the time and place. The registration begins not more than 120 days and not less than 60 days before the general election, and closes not more than 20 and not less than 10 days before the election.

In New Castle county a voter must be registered to be able to vote at the general election following, and to vote at all primaries at which candidates for county or State officers or delegates to the convention for the purpose of nominating county or State officers shall be chosen; at other primaries a citizen may vote without registration. In Kent and Sussex counties registration is necessary for voting at the succeeding general election, but not for voting at primaries. Registration is necessary also for certain special elections which may be called.

No one is eligible for registration unless he is a male

citizen of this State, twenty-one years of age, who has been a citizen of the State one year, of the county three months, and of his election district thirty days next preceding the general election. Any man who has reached the age of twenty-one years since the year 1900 must be able to read the constitution of Delaware in English and must be able to write his name as an additional qualification for registration; persons physically unable to read or write, as through blindness or paralysis, are excepted. Persons in the military, naval, or marine service of the United States stationed in Delaware do not acquire residence by being so stationed in the State. Idiots, insane persons, paupers, persons convicted of felonies, and other persons incapacitated by the constitution or laws of the State from voting are refused registration. The General Assembly may impose the forfeiture of the right to vote as a punishment of crime.

If for some reason other than the above an applicant is refused registration, he may appeal to the resident Associate Judge of his county, whose decision is final and binding on the registration officers. An interested person may appeal to the registration officers to strike certain names from the list, and they may do so if they find the reasons sufficient. In all cases an appeal may be taken from the registration officers to the resident Associate Judge, or in his absence to any Judge qualified to sit in the Supreme Court.

The completed registry lists are placed in the hands of the Sheriff of the county.

**The Election.** — After the various parties have chosen their candidates, after the registration has been completed, then comes the day on which the voters decide who shall fill the various offices. The constitution fixes the first Tuesday after the first Monday of November as general

election day. On this day the voters in the three counties go to their respective voting places and cast their ballots. All the elective State and county officers (and once in four years, also presidential electors) are chosen at this election. The various incorporated towns and cities of the State choose their local officers on the date named in their charters or in the law of the State.

**Ballots.** — The candidates for the various State and county offices must file notice of their candidacy with the Clerk of the Peace of their county within a certain time preceding the election. From the names so submitted to him the Clerk of the Peace makes out the official ballot and has it printed. The ballot in use in our State is known as the Australian ballot. It is so devised as to preserve the secrecy of the ballot and prevent in a large measure fraud and dishonesty at the polls. The Clerk of the Peace publishes the official ballot in newspapers throughout the county. The same ballot is used throughout one county. The ballots, lists of the registered voters, ballot boxes, and various necessary papers are delivered to the election officers in the election districts.

**Election Districts.** — For the convenience of voters, the Representative districts defined in the constitution are by law divided into election districts, each district having its voting place. The number of voting districts in a Representative district varies, some having two, three, four, or even more.

**Election Officers.** — The election itself is conducted by officers provided by law. In each voting district there are one inspector of election and two judges of election. Except in Wilmington, the inspector of election is chosen by vote at the preceding general election; and one judge of election is chosen by each of the two majority parties

(at present the Republican and Democratic parties) at party meetings held shortly before the election. Each judge may choose a clerk to aid him.

The Governor also appoints two men in every voting district in the State to act as voters' assistants at the general election. He appoints one from each of the two majority parties (the Democratic and Republican); they serve without compensation. A voter who desires the aid of one of these officers may take him into the voting booth with him and have his help in marking his ballot properly. Voters' assistants do not accompany a voter unless requested by him to do so. Obviously this provision for voters' assistants destroys to a certain extent the secrecy of the ballot.

**The Manner of Voting.** — The polls open on election day between 8 and 9 A.M. and close at 6 P.M. A citizen desiring to vote enters the voting place and announces his name. If his name is on the registry list and if he is not challenged, he is handed a properly numbered ballot by one of the election officers. He then enters a closed booth where he marks his ballot. He then folds his ballot properly, leaves the booth, and hands the ballot to the proper election officer, who places it in the ballot box. The clerks keep a record of the names of those who have voted. In marking his ballot each voter must exercise great care to follow the method provided by law. If the ballot is not properly marked, or is defaced in any way, it will be cast out by the election officers when they count the votes. It is estimated that from 7 per cent to 10 per cent of votes cast at a general election are cast out and not counted because they are not properly marked. By reading the regulations for voting carefully, a man can learn how to mark his ballot properly.

**Counting the Votes.** — After the polls have been closed the election officers proceed to count the votes. The ballots are examined and such as have been legally marked are counted. Then a list of the candidates, with the number of votes cast for each, is made out and sealed. These lists are called the election returns. The ballots are again placed in the ballot boxes and these boxes are carefully sealed.

On the day following the election the inspector of election must take the ballot boxes, election returns, and other papers required by law, and place them in the hands of the Prothonotary of his county. The inspector makes such other returns as the election laws may demand.

**Determining Result of Election at Large.** — On the second day after the election, at 12 o'clock noon, the Prothonotary submits the election returns, ballot boxes, and other legal papers to the Superior Court of his county. This court then opens the returns of the various districts and adds together the votes cast for each candidate. The candidates for the various offices receiving the highest number of votes are declared elected. The results of the election in the county are duly certified by this court, and the ballot boxes, carefully sealed, are placed in the custody of the county Sheriff. The election returns of the vote for State officers, when duly certified by the court, are transmitted to the officers or boards named in the election laws of the State.

**Election Laws.** — The entire process of conducting and determining the result of an election, together with the method of settling a contested election, is carefully outlined in a body of laws known as the Election Law. These laws have been passed by the General Assemblies in accordance with the provisions of the constitution on elections.

The different forms of bribery at elections, vote buying, and the influencing of voters in any improper way are punishable by the courts. The importance of these laws and the necessity for their strict enforcement cannot be overestimated. On the purity of the ballot and upon the intelligence of the voters depends largely the success of the republican form of government under which we live.

## CHAPTER XVI

### REVENUE AND TAXATION

THE administration of government, central and local, in a State makes necessary the expenditure of considerable sums of money. It is imperative, therefore, that the State possess some fixed sources of revenue. This revenue in Delaware is derived from taxes, licenses, and fees.

The system of taxation is somewhat complex, but it is by no means so intricate as is commonly supposed. It is given in outline in this chapter, except that no reference is made to school tax; the methods of assessing, levying, and collecting the school tax are given in the succeeding chapter on Education.

In our State there are four units of taxation:

- The Representative district;
- The incorporated town or city;
- The county;
- The State.

**The Taxes in the Representative District.** — The Representative district is the unit of county taxation. In the chapter on the Representative District the method of making the assessment is given (pp. 21, 22), and the chapter on the County explains the manner of revising these assessments (p. 57) and the manner in which the county rates are determined (p. 58). After the tax duplicates for the various districts have been made at the order of the Levy Court, they are given to the Collectors in the districts, who



proceed to collect the taxes on their duplicates. The taxes collected in the district are the three county rates (the county, road, and poor taxes), the capitation tax, and in New Castle county a county dog tax. These are levied by and for the county.

It will be observed that the Representative district does not levy taxes; it is merely the unit for assessment and collection. There is a notable exception to this rule in Kent and Sussex counties; under the provisions of the "Good Roads Law," a district may levy a special road tax in addition to the regular county road tax for the purpose of securing an appropriation from the State to improve the roads in that district (see p. 75).

✓ **Taxes in Incorporated Towns.** — Unincorporated towns in Delaware have no special tax; the taxable persons pay the regular county rates. In the incorporated towns the taxable persons pay at least two of the county rates — the county and poor taxes. The road tax is in many cases covered by special legislation. By special act of the General Assembly or by charter provisions, certain incorporated towns have been relieved of the payment of the county road tax, but contribute a specified sum to the county for road purposes. In certain other incorporated towns the taxable persons pay the regular county road tax, and the county returns to the town a specified part of this tax. There are a few towns which pay no road tax to the county, nor any specified sum for road purposes. In none of these three classes of towns does the county exercise care over the roads of the town. In some towns, however, the taxable persons pay the regular county road tax, and the county must keep in repair the streets of the town.

Every incorporated town is authorized by its charter to lay a tax known as the town tax. This is levied on

a special assessment made by the town Assessor and is collected by the town Collector. The county rates in the town fall only upon the property owner; but the town tax usually is so levied as to include all male citizens over twenty-one years of age.

Many incorporated towns are authorized to levy a dog tax. The citizens of some incorporated towns may therefore pay two dog taxes, one to the county and one to the town.

**Taxes in the City of Wilmington.** — The taxable persons in the city of Wilmington pay the regular county and poor tax of New Castle county, but pay no road tax. The two county rates are received by the County Treasurer of New Castle county, who for this purpose acts as a receiver of taxes.

The City Council levies each year a tax known as the city tax. This is levied on a special city assessment and is collected by the city Collectors. This tax comprises two rates, the city and school taxes. The city tax is levied entirely on property, non-property owners paying no city tax.

**The County Taxes.** — Every male citizen in a county must pay a capitation tax of twenty-five cents a year. This is the only tax non-property-owners pay to the county.

The district Assessors make the county assessment on property, personal and real, personal property including horses, cattle, and other animals generally included under the term "stock." The persons on this property assessment represent the taxable persons for county purposes, and it is they who pay the three county rates — the county, road, and poor taxes.

In New Castle county a tax is levied by the county on dogs, the money received from this source going into a

fund known as the "sheep fund," out of which the owners of sheep killed by dogs are reimbursed.

The county also receives a considerable income from the fees paid to various county officers, such as the Clerk of the Peace, the Register of Wills, and the Recorder of Deeds.

**Résumé.** — It will be seen from the preceding discussion of taxes other than State taxes, that :

(a) All male citizens twenty-one years of age or over pay a capitation tax of twenty-five cents a year.

(b) All owners of real or personal property pay two of the county rates — county and poor taxes ; and all property owners except in Wilmington and certain incorporated towns pay also the third county rate — the county road tax.

(c) Citizens in incorporated towns who are included in the town assessment pay town tax and may also be subject to a dog tax.

(d) Property owners in Wilmington pay city tax.

(e) Owners of dogs in New Castle county pay a county dog tax.

(f) For the school tax, see p. 222.

### The State Revenue

The State of Delaware, though small in size compared with some other States in the Union, has to support the entire machinery of a State government. The taxes enumerated in the first part of this chapter are expended within the county. The State has a separate system of raising revenue.

This State levies no direct tax on its citizens. The entire income of the State, outside of the school funds and the annual appropriation from the United States to

Delaware College and the Experiment Station, is derived from the following sources:

- (a) Licenses ;
- (b) Corporations ;
- (c) Insurance Companies and Banks ;
- (d) Merchants and Manufacturers.

**Licenses.** — Under the statute law the Secretary of State is authorized to issue certain licenses. Most of these are issued by the Secretary in blank to the Clerks of the Peace, who grant them to the proper persons on the payment of the statutory fee. These fees are turned over to the State Treasurer by the Clerks of the Peace. The licenses so granted are numerous; among the most important are the licenses to sell liquor in New Castle county, the licenses to lawyers, doctors, dentists, veterinarians, brokers, private bankers, real estate agents, conveyancers, photographers, and keepers of places of amusement. A large portion of the State revenue is derived from such licenses.

The Secretary of State commissions all State officers, some of whom must pay a fee for their commissions. The Secretary also issues all automobile licenses through his office.

The Oyster Revenue Collector collects the ground rents for the oyster beds in Delaware Bay and also the license fees of oyster tongers and of those engaged in menhaden fishing.

**Corporations.** — Under the general corporation law the Secretary of State is authorized to grant certificates of incorporation on the payment of fixed fees. The income from this source is considerable.

All corporations incorporated in this State must pay an annual franchise tax to the State Treasurer.

The railroad companies doing business in this State pay an annual tax, fixed by statute law, to the State Treasurer.

Telegraph, telephone, cable, express, electricity, heat, power, steam, and gas companies pay an annual tax to the State Treasurer.

Delaware insurance companies other than life insurance companies pay an annual tax to the State Treasurer.

**Insurance Companies and Banks.** — Insurance companies doing business in this State must pay an annual State tax, an annual charge for certificates of authority, and an annual charge for the licenses of agents. Banks, trust and loan companies, surety and guaranty companies, building and loan companies, must pay an annual State tax. All these taxes are collected by the Insurance Commissioner.

**Merchants and Manufacturers** pay to the Clerk of the Peace of the county in which their business is located an annual tax on the volume of business transacted by them.

**Résumé.** — The annual income of the State from the sources enumerated above and from all other sources is about \$450,000 a year. A detailed account of the income of the State from each source may be found in the reports of the Auditor of Accounts, and the financial condition of the State can be readily determined from the reports of the State Treasurer.

## CHAPTER XVII

### PUBLIC EDUCATION IN DELAWARE

IN a republican government the will of the people is the directing force of the government policy. On the intelligence of the people will depend the soundness of their views and their attitude on public questions. In republican governments, therefore, sufficient provision must be made for the education of those who will in future assume the responsibility of government.

When the Swedes made their first settlement in Delaware on the present site of Wilmington, they made some provision for the education of the youth. From that day to the present the existing government has always made some effort to forward education. These efforts were often very feeble, but the government realized its responsibility. The early public schools, while far from being what they should be, were on the whole as effective as those then existing in the other States. At first there was considerable opposition on the part of many citizens to the plan of having the schools supported by public money, and consequently the taxes for school purposes were low and insufficient and not levied regularly. Public opinion has changed, the public schools have become a national institution of which we are proud, and we cherish them as the chief defense of our liberty and promoter of our prosperity. In our own State the gifts made by the government have grown more liberal, the school laws of the General Assem-

blies more effective, the local school organization more complete. There has thus been developed in Delaware a system of public education which compares very favorably with that of the other States.

The system of public schools in our State includes separate elementary and secondary schools for white and colored pupils. At the head of the system for white pupils stands Delaware College, at Newark; at the head of the colored schools is Delaware State College for Colored Students, near Dover. As the State is small, it supports no schools of its own for defective children, such as the blind and idiotic. By provisions made by the General Assembly such children are sent to institutions in other States. The Ferris Industrial School for Boys, near Marshallton, and the Delaware Industrial School for Girls, in Wilmington, are private schools which receive State aid; in them are placed refractory and wayward boys and girls.

The other schools in the State are not under State control and do not receive State support. The Catholic church supports parochial schools in Wilmington and in New Castle, and a large orphanage for colored children near Clayton. Wilmington has two private schools, "The Friends' School" and the "Misses Hebb's School." The Wilmington Conference of the Methodist Episcopal church supports the "Wilmington Conference Academy" in Dover. Wilmington has two business colleges, Goldey College and Wilmington Business School.

Every few miles along the country roads we find a school-house; every town has its school or schools. How these schools are governed, how they are supported, what work they accomplish, are questions with which every one should be familiar.

### Government of the Schools

**State Board of Education.** — At the head of the State system of public schools is the State Board of Education. This is composed of seven men — the Governor, the Secretary of State, the State Auditor, the President of Delaware College, and the senior member of each County School Commission. The President of the State College for Colored Students takes the place of the President of Delaware College when matters concerning the colored schools are dealt with. The members of this Board are paid \$5 per day for each day they meet.

The Board holds four regular meetings a year in the last week of March, June, September, and December. The Auditor of Accounts is secretary of the Board, and may call special meetings when necessary.

As the head of the State school system, this Board has power to enforce the laws made by the General Assembly concerning the schools. It also decides each year what text-books shall be placed on the State list for use in the schools. This list is printed by its order and sent to all the teachers in the State. The County Superintendents submit to the State Board the examination forms which they intend to give to applicants for teachers' certificates. These questions must be approved by the Board.

The County Superintendents attend the meetings of the Board to answer their inquiries into the condition and needs of the schools.

The Board makes a biennial report to the General Assembly, giving an account of the schools which have been open, the attendance, and the cost of maintenance, and making specific recommendations for increasing the efficiency of the schools. At intervals this report is published for distribution.



**The County School Commission** of each county has three members appointed by the Governor for a term of three years. They receive \$5 per day and their mileage for each day they are in session; but the compensation may not exceed \$100 per annum. Each County School Commission holds four meetings a year, — the first Wednesday of March, June, September, and December. The secretary may call special meetings when necessary.

It is the duty of a County School Commission to visit at intervals the various schools throughout the county and keep a general supervision over them.

It serves as a Board of Health for the schools and sees that the schools and outbuildings are sanitary and properly constructed for the comfort and health of the pupils.

It usually has the power to build schools in districts for colored pupils.

If a teacher is not satisfied with the marks given by a Superintendent, or with any decision concerning a teacher made by a Superintendent, appeal may be made to the County Commission, and from the County Commission the appeal may be carried to the State Board of Education.

Whenever a Board of Commissioners or a Board of Education finds that it needs an additional teacher for the coming school year, it makes formal application to the County School Commission on or before the meeting on the first Wednesday in June. If the Commission thinks the additional teacher necessary, it grants the application and orders the State Treasurer to pay the local board an additional dividend for the coming year.

The County Commission certifies each year to the State Treasurer the number of State dividends the county is entitled to for the next school year.

It decides who shall receive State aid while attending a Normal School in another State.

**County Superintendents.**—The chief executive officer of the schools in a county is the County Superintendent. He is appointed by the Governor for a term of two years; the appointment must be confirmed by the Senate. He receives a salary of \$1200 per year, and the sum of \$300 per year is placed at his disposal for expenses incurred in visiting the schools.

It is his duty to visit the schools in the county and to take note of the condition of the schoolhouses and out-houses.

He has supervision of the teachers and the instruction in the schools and must make every endeavor to increase the efficiency of the teachers and the methods of instruction.

He examines annually such persons as desire to teach in the white or colored schools of the State. He is empowered to grant professional, first-grade, and second-grade certificates to successful applicants. A second-grade certificate, good for two years, is granted to applicants who make at least 75 per cent in all of the following subjects: written arithmetic, mental arithmetic, United States history, civics, State constitution, geography, penmanship, English grammar, theory and practice of teaching, orthography, physiology and hygiene, drawing, reading, and botany. A grade of 75 per cent in botany and drawing, and of 90 per cent in all of the other studies above enumerated, entitles the applicant to a first-grade certificate, which is good for five years. Teachers who hold a first-grade certificate may secure a professional certificate good for ten years, by making a grade of at least 75 per cent in each of the following additional subjects:

algebra, geometry, physics, rhetoric, Latin, history of education, natural history, and psychology.

The Superintendent of each county holds annually an Institute for the white teachers. This Institute lasts for at least three days, and the Superintendent receives \$150 from the State to defray the expenses. All teachers in a county are required to attend the Institute except when excused by the local Commissioners.

The Superintendent of Kent county is designated by law as the director of the Institute for Colored Teachers, which lasts at least three days and is attended by the colored teachers of all three counties. The director receives \$150 from the State to pay the expenses.

Each Superintendent holds at such time as he may think proper local Institutes throughout the county.

He serves in an advisory capacity to the State Board of Education and to the County School Commission.

He sends to each teacher in his county a list of those pupils who come under the provisions of the compulsory school law, and sees that this law is enforced.

He makes a biennial report to the State Board of Education, reviewing the work done by him, the progress and condition of the schools, and the needs of the county schools.

**School Districts.** — Each county is divided by law into a certain number of school districts. There are separate districts for white and colored schools. Each single district is supposed to include an area sufficiently large to support one school. Towns and cities throughout the State usually comprise two or more districts consolidated by law. Each single or consolidated district has as its governing body a local board known as School Commissioners or School Directors.

**Local Board in Single Districts.** — The local board in a single district is composed of three Commissioners, one of whom is chosen as Clerk of the Commissioners. These men are chosen for a term of three years at the annual meeting of the school voters of the school district the first Saturday of June each year. All but the Clerk serve without compensation, and his fee is very small.

The Commissioners have charge of the school of the district. They choose a teacher each year, fix the salary of the teacher, provide the school with necessary books, apparatus, and fuel, and see that the school is open to the pupils at least one hundred and forty days each year. They may at their discretion dismiss a teacher.

They determine the cost of maintaining the school the ensuing year, and levy a tax rate for school purposes in their district sufficient to meet this cost. They may choose their own tax collector and empower him to collect the taxes.

They must keep the schoolhouse in good condition and make all necessary repairs.

It is their duty to visit the school during its sessions.

The accounts of the Clerk are audited each year by a committee appointed at the meeting of the school voters the first Saturday in June.

The Clerk meets the Auditor of Accounts every summer at such time and place as the Auditor may specify, and opens his books for inspection and final settlement.

**The Local Board in Incorporated Districts.** — The local board in an incorporated district is usually known as the Board of Education, and usually has five or more members. They are chosen at the annual meeting of the school voters, which is usually held the last Saturday in June, for a term of two or three years, as the law of

incorporation may designate. The number of men in the Board and their term vary somewhat in the consolidated districts. The Board chooses its own officers, usually a President, Secretary, and Treasurer.

The Board of Education has charge of the schools in its districts.

It appoints the teachers, fixes their salaries, and may dismiss them for cause.

It appoints and pays janitors to keep school buildings clean and in order.

It must provide proper school buildings and keep them in repair. When a new school building is necessary, the Board may appeal to the General Assembly for permission to borrow the necessary money.

It determines the cost of maintaining the schools and fixes the tax rate in its school districts. It appoints its tax collector and has compulsory process to collect taxes.

The members of the Board must visit the schools under their charge, examine into their condition, and labor to improve their efficiency.

The Board holds stated meetings once every month and special meetings when necessary.

It may on the recommendation of the principal expel or suspend unruly pupils, or may vest this power of suspension in the principal.

It must keep the schools open at least one hundred and forty days each year, and may keep them open as much longer as it thinks proper.

It must see that all pupils subject to the compulsory school law are in the schools. It may cause the commitment of truants to the Ferris Industrial School, and may appoint truant officers to bring truant pupils into the schools.

The accounts of the Board are audited each year by a committee appointed at the annual school meeting the last Saturday in June.

The Board must through its proper officer make an annual settlement with the Auditor of Accounts at such time and place as the Auditor may name.

### How the Schools are Maintained

The income of a school district comes from two sources : it receives a certain sum each year from the State, and it raises a certain sum within the district by a tax known as the school tax. The State is very liberal to the schools. It has provided a permanent school fund, and it also appropriates large sums annually for the schools.

**The State School Fund.** — By successive enactments and appropriations, the State of Delaware has invested for the schools the following sums in bank stock :

5700 shares of Farmers' Bank of Delaware \$50 par	.	.	\$285,000
74 shares of National Bank of Delaware \$100 par .	.	.	7,400
254 shares of Union National Bank \$25 par .	.	.	6,350
114 shares of National Bank of Smyrna \$50 par .	.	.	5,700
			<hr/>
			\$304,450
also,			
one bond, State of Delaware, @ 6 per cent interest	.	.	178,785
			<hr/>
			\$483,235

This sum of \$483,235 is known as the "School Fund." The income from this fund, which amounts to a little over \$40,000 a year, is for the use of the schools, and neither income nor principal may be used for any other purpose. The market value of the bank stock, together with the par value of the bond, is over \$900,000.

**Appropriations by Legislature.** — The General Assembly at each biennial session appropriates a sum for the use of

the schools for two years. This appropriation, according to the constitution, must be at least \$100,000 per year; and at present, the annual sum appropriated is about \$132,000.

**Apportioning of State Money to Schools.**— The \$40,000 interest from the "School Fund" and the \$132,000 appropriated make about \$172,000 for the State Treasurer to distribute annually among the schools. This money is divided among the schools according to the number of teachers employed; but for this purpose Wilmington is always credited with 165 teachers, no matter how many are actually employed. The State Treasurer receives every summer a statement of the number of teachers that will be employed the coming year in each district in the State. The sum available for distribution divided by the whole number of teachers, including 165 for Wilmington, gives a sum which is known as the "State dividend." This State dividend has for some years been about \$215. Thus a district employing one teacher receives one dividend, or \$215, from the State that year; a district employing two teachers receives two dividends, or \$430, and so on. This holds true for colored as well as for white schools.

If the district has bought any text-books through the State Treasurer during the preceding year, he subtracts the sum on that account from the dividend or dividends due the district. Whatever is due each district from the State is deposited in the Farmers' Bank of the county to the credit of the district. The money so received from the State can be used by the district only for the payment of teachers' salaries and for the purchase of text-books.

**Local Taxation.**— As we have already seen, the local board, knowing the sum that it will receive from the State, and having computed the cost of maintaining the schools the coming year, knows how much money will have to be raised

by local taxation. When it has determined the tax rate, the tax duplicate is made out by the Clerk or Secretary. According to the present law, real estate is taxed at its assessed rental value less reprises, and personal property, such as horses and cattle, on the assessed value; and other persons not owning any real estate are taxed equally according to their poll assessment.

To receive the State dividend, every white district must raise at least \$100 in local taxation for each teacher it employs, and every colored district at least \$50. If the County Superintendent finds that a district has not raised the required sum, he must notify the State Treasurer, who will withhold the State dividend from that district.

Each single school district or incorporated district chooses its own tax collector. The laws for the collection of school tax are very strict, as the law supposes that every citizen should pay this tax most cheerfully.

### **The Schools Themselves**

The schools of Delaware, with the increased aid they are receiving and with the growth of the school sentiment, are becoming better every year. In town and country alike the buildings are more commodious, the equipment more complete, the teachers more efficient than ever before.

The State Board of Education has outlined a course of study for the elementary grades, and there are few schools which do not do work up to the standard which has been set for them. The schoolhouses in the country districts are becoming more attractive, the attendance is more regular, the instruction wider and more complete.

In the town schools there has been a marked advance. High schools are now to be found even in the smaller towns. Some of the larger high schools offer several



courses, the length of the high school course being three or four years. Departmental instruction, laboratories in physics and botany, kindergarten departments—all these are finding their way into the schools.

**Special Aid to Students.**—By an act of the General Assembly, pupils who have finished the work of the sixth



Newark Academy

grade in a country school may under certain conditions attend a near-by graded or high school, designated by the State Board of Education. Such a pupil applies to the Board of Education in charge of the high school, and if he or she is qualified to enter the seventh grade and the high school is not already crowded, he or she must be admitted. For every pupil so admitted the high school receives \$15 per year from the State. The principal of the school to which a pupil has been admitted must within ten days notify the State Auditor. Not more than one hundred and fifty pupils in any one county may attend the high schools at the same time under this provision.

As the State supports no normal or training school for teachers, it has made provision to aid a certain number of persons in each county to prepare themselves as teachers. By an act of the General Assembly each county receives \$1000 annually from the State with which to aid such students. Each student receives \$2 per week for forty weeks of each year for the two, three, or four years it may take to complete the course. As a rule the students go to normal schools in Pennsylvania. The \$1000 for each county enables it to aid about twelve students each year. After graduation the teacher must teach in the schools of Delaware at least two years.

A person who wishes to go to a normal school and desires State aid must apply to the County Superintendent. Whenever there is a vacancy, the Superintendent recommends one of the applicants to the County Commission, which takes final action on the recommendation.

It has been the custom of the County Superintendents to hold in Dover a summer school for teachers and for those preparing to teach. This school is a private enterprise and receives no State aid, the teachers paying their own expenses.

**Compulsory Attendance.** — In 1907 the General Assembly passed an act compelling all children between the ages of seven and fourteen to attend some school in which the common English branches are taught, for a continuous period of not less than five months each year. The local boards may reduce this period of compulsory attendance, but in no case to less than three months. Local boards may excuse children from attending for mental, physical, or other urgent reasons.

Parents and guardians or other persons in control of children between seven and fourteen years of age who re-

fuse to send them to school for the required period, and are convicted of such neglect before a Justice of the Peace, or Alderman, are fined not exceeding \$2 for the first conviction and not exceeding \$5 for succeeding convictions; or if not able to pay the fine, they are imprisoned in the county prison for no more than two days for the first offense and no more than five days for succeeding offenses. The fines are paid over for the use of the Board of Education of the district.

Truants and incorrigibles may be brought before a magistrate and upon conviction are sent to the Ferris Industrial School. The State Treasurer pays to the Ferris Industrial School forty cents per day for each pupil so confined there. The various local boards are empowered to appoint truant officers to bring truants into the school.

Principals and teachers and other school officers are compelled to enforce this law under penalty of heavy fine.

### The State Colleges

**Delaware College.** — Delaware College, situated at Newark, may be regarded as the head of the State schools for white pupils. Founded in 1833 as Newark College, its name was changed later to Delaware College, and in 1870 it was made a State institution. By the provisions of the national Congress in an act known as the "Morrill Bill," Delaware, in common with the other States, received a large area of public land to serve as the endowment of a college especially devoted to the teaching of agriculture and mechanic arts and military tactics. By another act of Congress known as the "New Morrill Bill," passed in 1890, Delaware receives \$25,000 annually for the support of the college provided for under the first Morrill act; of this amount Delaware College

receives \$20,000, the other \$5000 going to the Delaware State College for Colored Students.

By an act of Congress in 1907 Delaware receives from the national government an additional \$5000 for 1908, \$10,000 for 1909, \$15,000 for 1910, \$20,000 for 1911, and \$25,000 for 1912 and each year thereafter, of which



Delaware College Campus

four fifths go to Delaware College and one fifth to the College for Colored Students. The income from the public lands under the first Morrill act is about \$5000; so that the college has (after 1912) an annual income of about \$45,000 from national sources.

While the State makes no direct appropriations for the support of the college, it has made liberal appropriations for the erection of buildings. The college proper now has four large buildings: a Dormitory, a Recitation Hall, a Mechanical and Electrical Hall, and a Gymnasium.

The college is governed by a Board of Trustees, of whom fifteen (five from each county) represent the State and are

appointed for life by the Governor whenever there may be a vacancy, and fifteen represent the original board of Newark College and are elected, as vacancies occur, by the original board. The Governor of Delaware and the President of the college are *ex officio* members of the Board of Trustees.

Tuition to students from Delaware is free. The college offers excellent courses named as follows : Classical, Latin Scientific, General Science, Agricultural, Civil Engineering, Mechanical Engineering, Electrical Engineering, and a short course in Agriculture.

Every student is obliged during his stay at the college to study military tactics and drill under an officer of the United States regular army stationed there.

The faculty is large enough to insure effective and thorough instruction. It is composed of men trained and experienced in the work of their departments. The college numbers among its graduates many of the State's best citizens, and to-day its work is recognized as efficient, its graduates ranking with those of many institutions much larger and richer in resources. It is an institution of which Delaware may well be proud.

**The Delaware College Experiment Station** is by act of the General Assembly in 1888 a department of Delaware College. In 1887 the national Congress passed an act known as the Hatch Bill, appropriating annually \$15,000 to each State and Territory for the purpose of "acquiring and diffusing among the people of the United States useful and practical information on the subjects connected with Agriculture and to promote scientific investigation and experiment respecting the principles and applications of agricultural science under the direction of the college or colleges established in each of the States and Territo-

ries," in accordance with the first Morrill act. Under the provisions of this act the Delaware College Experiment Station was established by the State Assembly and was designated as the institution which was to receive the \$15,000 annually from the national government. By a further act of Congress in 1905, known as the Adams Bill, the station received \$5000 for the year 1906, \$7000 for 1907, \$9000 for 1908, \$11,000 for 1909, \$13,000 for 1910, \$15,000 for 1911 and each year thereafter. Thus the annual income of the station in 1911 and afterward is \$30,000.

By an act of the Delaware General Assembly in 1907 a bond issue of \$20,000 was authorized to buy a farm for the station for the purpose of conducting experiments in agriculture. With this sum a farm of 217 acres near Newark was purchased.

The station is under the immediate control of a committee of the College Trustees. The station work is under the supervision of a Director, who is also the Professor of Agriculture in the College.

The station staff, which is composed of trained scientists in the various agricultural subjects, includes a plant pathologist, a horticulturist, an entomologist, an agronomist, a chemist, and a veterinarian. A well-equipped laboratory building for these men is on the college grounds. Connected with it are a greenhouse and other buildings necessary for the work.

The station workers are engaged in experiments in practical agriculture, besides doing some research work along their respective lines. They are in constant communication with the farmers of the State, and give them information and personal aid on farm problems. A great deal of their time, especially during the spring, summer, and autumn months, is spent on the various farms through-

out the State. At intervals these men publish bulletins on the various phases of agriculture, the results of their experiments and field work; these bulletins are sent to interested people in the State and to the other experiment stations in the United States. The United States government gives the stations the right to issue their bulletins and reports through the mails free of postage charges.

**The Delaware State College for Colored Students** was established in order to furnish the colored students of the State an opportunity to take a college course at a cost not prohibitive.

The college is situated near Dover, and has modern, well-equipped buildings. A fine farm of 90 acres is connected with it.

This college is governed by a Board of Trustees of six members. The Trustees are appointed by the Governor for a term of four years, two Trustees coming from each county. The Trustees are equally divided among the two important political parties. The Board holds meetings each quarter. The President of the College is *ex officio* a member of the Board of Trustees.

**Support of the College.** — The college receives annually \$10,000 as its share of the \$50,000 received from the United States, under the acts of 1890 and 1907 (p. 226).

The State has made appropriations for the erection of buildings and for contingent expenses. The farm is a source of revenue.

Each student in the college pays \$2.25 per week for board, tuition, and all necessary expenses.

The College is open to colored students of both sexes from this and other States.

It offers a regular college course as well as a preparatory course. It also offers a normal course for those who intend to teach in the colored schools.

Instruction is also given in practical agriculture and in the mechanic arts, as well as in cooking, sewing, dress-making, etc.

### Special Schools

**Ferris Industrial School.**—The Ferris Industrial School, near Marshallton, was founded in 1884 by a bequest of John Ferris. The aim of the school is to reform boys from this State who have shown themselves incorrigible. The school is governed by a self-perpetuating Board of Managers.

Boys may be committed to this school by Justices of the Peace, by a Municipal Court, or by the Superior Court. Under the provisions of the new compulsory attendance law, truants may be committed to the school.

While largely supported by the income of its own endowment, the school receives State and county aid for boys committed to it.

Instruction is given to the inmates in the common school branches, in woodworking, electricity, engineering and firing, farming, dairying, poultry raising, tailoring, and baking.

**The Delaware Industrial School for Girls** was founded by charitable persons in 1895 for the purpose of aiding unfortunate girls and for reforming those who show themselves incorrigible. The school is a private institution governed by a self-perpetuating Board of Managers and an Advisory Committee, and is largely supported by private subscriptions; but it also receives State and county aid.

Girls from this State may be committed to this school by magistrates or by the courts. The inmates are instructed in the common English branches, in sewing, cooking, and household work. In every way an endeavor is made to secure their reformation and to make them self-supporting.



## APPENDIX

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### CONSTITUTION OF THE STATE OF DELAWARE ADOPTED IN CONVENTION, JUNE 4, A.D. 1897

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WE, THE PEOPLE, HEREBY ORDAIN AND ESTABLISH  
THIS CONSTITUTION OF GOVERNMENT FOR THE  
STATE OF DELAWARE

#### PREAMBLE

Through Divine goodness, all men have by nature the rights of worshiping and serving their Creator according to the dictates of their consciences, of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and in general of attaining objects suitable to their condition, without injury by one to another; and as these rights are essential to their welfare, for the due exercise thereof, power is inherent in them; and therefore all just authority in the institutions of political society is derived from the people, and established with their consent, to advance their happiness; and they may for this end, as circumstances require, from time to time, alter their Constitution of government.

#### ARTICLE I. BILL OF RIGHTS

SECTION 1. Although it is the duty of all men frequently to assemble together for the public worship of Almighty God; and piety and morality, on which the prosperity of communities depends, are thereby promoted; yet no man shall or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of

worship, or to the maintenance of any ministry, against his own free will and consent; and no power shall or ought to be vested in or assumed by any magistrate that shall in any case interfere with, or in any manner control the rights of conscience, in the free exercise of religious worship, nor a preference given by law to any religious societies, denominations, or modes of worship.

SECTION 2. No religious test shall be required as a qualification to any office, or public trust, under this State.

SECTION 3. All elections shall be free and equal.

SECTION 4. Trial by jury shall be as heretofore.

SECTION 5. The press shall be free to every citizen who undertakes to examine the official conduct of men acting in a public capacity; and any citizen may print on any subject, being responsible for the abuse of that liberty. In prosecutions for publications, investigating the proceedings of officers, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels the jury may determine the facts and the law, as in other cases.

SECTION 6. The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as particularly as may be; nor then, unless there be probable cause supported by oath or affirmation.

SECTION 7. In all criminal prosecutions, the accused hath a right to be heard by himself and his counsel, to be plainly and fully informed of the nature and cause of the accusation against him, to meet the witnesses in their examination face to face, to have compulsory process in due time, on application by himself, his friends or counsel, for obtaining witnesses in his favor, and a speedy and public trial by an impartial jury; he shall not be compelled to give evidence against himself, nor shall he be deprived of life, liberty or property, unless by the judgment of his peers or by the law of the land.

SECTION 8. No person shall for any indictable offense be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; and no person shall be for the same offense twice put in jeopardy of life or limb; nor shall any man's property be taken or applied

to public use without the consent of his representatives, and without compensation being made.

SECTION 9. All courts shall be open; and every man for an injury done him in his reputation, person, movable or immovable possessions, shall have remedy by the due course of law, and justice administered according to the very right of the cause and the law of the land, without sale, denial, or unreasonable delay or expense; and every action shall be tried in the county in which it shall be commenced, unless when the judges of the court in which the cause is to be tried shall determine that an impartial trial thereof cannot be had in that county. Suits may be brought against the State, according to such regulations as shall be made by law.

SECTION 10. No power of suspending laws shall be exercised but by authority of the General Assembly.

SECTION 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted; and in the construction of jails a proper regard shall be had to the health of prisoners.

SECTION 12. All prisoners shall be bailable by sufficient sureties, unless for capital offenses when the proof is positive or the presumption great; and when persons are confined on accusation for such offenses their friends and counsel may at proper seasons have access to them.

SECTION 13. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

SECTION 14. No commission of oyer and terminer, or jail delivery, shall be issued.

SECTION 15. No attainder shall work corruption of blood, nor except during the life of the offender forfeiture of estate. The estates of those who destroy their own lives shall descend or vest as in case of natural death, and if any person be killed by accident no forfeiture shall thereby be incurred.

SECTION 16. Although disobedience to laws by a part of the people, upon suggestions of impolicy or injustice in them, tends by immediate effect and the influence of example not only to endanger the public welfare and safety, but also in governments of a republican form contravenes the social principles of such governments, founded on common consent for common good; yet the citizens have a right in an orderly

manner to meet together, and to apply to persons intrusted with the powers of government, for redress of grievances or other proper purposes, by petition, remonstrance or address.

SECTION 17. No standing army shall be kept up without the consent of the General Assembly, and the military shall in all cases and at all times be in strict subordination to the civil power.

SECTION 18. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war but by a civil magistrate, in manner to be prescribed by law.

SECTION 19. No hereditary distinction shall be granted, nor any office created or exercised, the appointment to which shall be for a longer term than during good behavior; and no person holding any office under this State shall accept of any office or title of any kind whatever from any king, prince, or foreign State.

WE DECLARE THAT EVERY THING IN THIS ARTICLE  
IS RESERVED OUT OF THE GENERAL POWERS OF  
GOVERNMENT HEREINAFTER MENTIONED

## ARTICLE II. LEGISLATURE

SECTION 1. The legislative power of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of thirty-five members, who shall be chosen for two years. The Senate shall be composed of seventeen members, who shall be chosen for four years.

The State is hereby divided into thirty-five Representative Districts, from each of which shall be chosen, by the qualified electors thereof, one Representative. In New Castle County there shall be fifteen Representative Districts, numbered from one to fifteen inclusive; in Kent County, ten Representative Districts, numbered from one to ten inclusive; and in Sussex County, ten Representative Districts, numbered from one to ten inclusive. The State is also hereby divided into seventeen Senatorial Districts, from each of which shall be chosen, by the qualified electors thereof, one Senator. In New Castle County there

shall be seven Senatorial Districts, numbered from one to seven inclusive; in Kent County, five Senatorial Districts, numbered from one to five inclusive; and in Sussex County, five Senatorial Districts, from one to five inclusive.

The Representative Districts in New Castle County are and shall be as follows:

Number One. All that portion of the City of Wilmington included within the Second and Fourth Wards, and those parts of the Sixth and Eighth Wards, respectively, lying south of and bounded by the central line of Eighth street.

Number Two. All that portion of the said city included within the Ninth Ward, and those parts of the Sixth and Eighth Wards, respectively, lying north of and bounded by the central line of Eighth street.

Number Three. All that portion of the said city included within the Seventh Ward, and that part of the Fifth Ward lying north of and bounded by a straight line including the central line of Eighth street.

Number Four. All that portion of the said city included within the First and Third Wards, and that part of the Fifth Ward lying south of and bounded by the central line of Eighth street, east of and bounded by the central line of Adams street, and west of and bounded by the central line of Market street.

Number Five. All that portion of the said city included within the Tenth, Eleventh and Twelfth Wards, and that part of the Fifth Ward lying south of and bounded by a straight line including the central line of Eighth street, west of and bounded by the central line of Adams street, and bounded on the west by the westerly boundary line of the said city.

Number Six. Brandywine Hundred.

Number Seven. Christiana Hundred.

Number Eight. Mill Creek Hundred.

Number Nine. White Clay Creek Hundred.

Number Ten. New Castle Hundred.

Number Eleven. Pencader Hundred.

Number Twelve. Red Lion Hundred.

Number Thirteen. St. Georges Hundred.

Number Fourteen. Appoquinimink Hundred.

Number Fifteen. Blackbird Hundred.

The Representative Districts in Kent County are and shall be as follows:

Number One. Duck Creek Hundred.

Number Two. Little Creek Hundred and the First Election District of East Dover Hundred.

Number Three. Kenton Hundred.

Number Four. West Dover Hundred and all that portion of East Dover Hundred lying next to West Dover Hundred and separated from the rest of East Dover Hundred by the following boundary lines: beginning at the middle of the public road leading from the Horsehead road to Kenton at the point of intersection of Kenton Hundred and East Dover Hundred, thence running along the middle of the said road to the Horsehead road, thence running in a westerly direction along the middle of the said Horsehead road a short distance to a short road leading from the said Horsehead road to the road from Dover to Hazlettsville, known as the Hazlettsville road, thence running along the middle of the said short road from the Horsehead road to the said Hazlettsville road, thence running in a westerly direction along the middle of the said Hazlettsville road a short distance to the road leading therefrom to Wyoming, thence running along the middle of the said road leading from the said Hazlettsville road to Wyoming to the point of intersection of East Dover Hundred and North Murderkill Hundred.

Number Five. All that portion of East Dover Hundred not included in Districts numbers two and four.

Number Six. Parts of North Murderkill, South Murderkill and Mispillion Hundreds included within the following boundary lines: beginning at the intersection of the southern line of South Murderkill Hundred with the State of Maryland, thence running along the division line between Mispillion Hundred and South Murderkill Hundred to the public road leading from Whiteleysburg to Harrington, thence running in a southeasterly and easterly direction along the middle of said public road to the public road leading from Masten's Corner to Vernon, at or near White's Church, thence running in a northeasterly direction along the middle of said public road leading from Masten's Corner to Vernon a short distance to the public road leading therefrom to the town of Harrington, being a continuation of the road leading from Whiteleysburg to Harrington, thence running in a southeasterly direction to the intersec-

tion of West street in the town of Harrington, thence running in a northerly direction along the middle of said West street to the middle of Wolcott street in said town of Harrington, thence running in an easterly direction along the middle of said Wolcott street to the middle of Dorman street in said town of Harrington, thence running in a northerly direction along the middle of said Dorman street to Brown's Branch, thence running in an easterly direction with the course of said Branch to the Delaware railroad, thence running in a northerly direction along said Delaware railroad to Beaver Dam Branch in South Murderkill Hundred, thence following the course of said Beaver Dam Branch in a northwesterly direction to the public road leading from Felton to Whiteleysburg, thence running in a northeasterly direction along the middle of the said public road from Felton to Whiteleysburg to the Owl's Nest road, thence running in a northerly direction along the middle of the said Owl's Nest road to the intersection of the Cowgill road from Woodside to Petersburg, thence running in a northeasterly direction along the middle of the said Cowgill road to the Reed road running from Woodside to DuPont's school house, thence running in a northwesterly direction along the middle of the said Reed road to DuPont's school house, thence running in a northerly direction along the middle of the public road leading from Willow Grove to Camden, a short distance to Stubb's Corner, thence running in a westerly and northwesterly and westerly direction along the middle of the public road leading from DuPont's school house to the Almshouse to Gray's Corner, thence continuing in a direct westerly line to the southern boundary line of West Dover Hundred, thence following the southern boundary line of West Dover Hundred in a westerly direction to the State of Maryland, thence running in a southerly direction along the eastern boundary line of the State of Maryland to the place of beginning.

Number Seven. All that portion of North Murderkill Hundred not included in District number six.

Number Eight. All that portion of South Murderkill Hundred not included in District number six.

Number Nine. All that portion of Mispillion Hundred not included in District number six.

Number Ten. Milford Hundred.

The Representative Districts in Sussex County are and shall be as follows:

Number One. Cedar Creek Hundred.

Number Two. All that portion of Nanticoke Hundred which lies north and west of Gravelly Branch, beginning at a point where the said Gravelly Branch intersects the dividing line between Georgetown and Nanticoke Hundreds and running in a southwesterly course to what was formerly known as Rest's Old Mill, thence along said branch to what was formerly known as Collins' Mills, to its mouth being at the head of Middleford Mill Pond; together with North West Fork Hundred.

Number Three. All that portion of Nanticoke Hundred which lies south and east of said Gravelly Branch, beginning at a point where the said Gravelly Branch intersects the dividing line between Nanticoke and Georgetown Hundreds, running in a southwesterly course to what was formerly known as Rest's Old Mill, thence along the said branch to what was formerly known as Collins' Mills, to its mouth at the head of Middleford Mill Pond; together with Seaford Hundred.

Number Four. Broad Creek Hundred.

Number Five. Little Creek Hundred.

Number Six. Dagsboro and Gumboro Hundreds.

Number Seven. Baltimore Hundred.

Number Eight. Indian River Hundred.

Number Nine. Georgetown Hundred.

Number Ten. Broadkiln and Lewes and Rehoboth Hundreds.

The Senatorial Districts in New Castle County are and shall be as follows:

Number One. All that portion of the City of Wilmington lying north of and bounded by a straight line including the central line of Eighth street extending from the Delaware River to the westerly boundary of said city.

Number Two. All that portion of the said city lying south of and bounded by the straight line aforesaid including the central line of Eighth street.

Number Three. Brandywine Hundred, together with all that portion of Christiana Hundred lying north of and bounded by the central line of Lancaster Turnpike.

Number Four. Mill Creek Hundred, together with all that portion



of Christiana Hundred lying south of and bounded by the central line of the Lancaster Turnpike.

Number Five. White Clay Creek Hundred, Red Lion Hundred and New Castle Hundred.

Number Six. Pencader Hundred and St. Georges Hundred.

Number Seven. Appoquinimink Hundred and Blackbird Hundred.

The Senatorial Districts in Kent County are and shall be as follows:

Number One. The first and second Representative Districts.

Number Two. The third and fourth Representative Districts.

Number Three. The fifth and seventh Representative Districts.

Number Four. The sixth and ninth Representative Districts.

Number Five. The eighth and tenth Representative Districts.

The Senatorial Districts in Sussex County are and shall be as follows:

Number One. The first and second Representative Districts.

Number Two. The third and fourth Representative Districts.

Number Three. The fifth and sixth Representative Districts.

Number Four. The seventh and eighth Representative Districts.

Number Five. The ninth and tenth Representative Districts.

All territory which shall hereafter be added to and included within the City of Wilmington shall become part of the Representative Districts in New Castle County as follows:

All lying east of a straight line including the central line of Market street, below Eighth street, as the said two streets now exist, and south of a straight line including the central line of Eighth street, as the same now exists, shall become part of Representative District number one.

All lying north of a straight line including the central line of Eighth street, as the same now exists, extending from the northeasterly side of Brandywine Creek to the Delaware River, or north of the Brandywine Creek, westerly from the point of intersection of the said straight line with the northeasterly side of the said Creek, shall become part of Representative District number two.

All lying north of a straight line including the central line of Eighth street, as the same now exists, south of the Brandywine Creek, and west of the central line of Market street, as the same now exists, shall become part of Representative District number three.

All lying between a straight line including the central line of Market street extended southerly and a straight line including the central line

of Washington street extended southerly shall become part of Representative District number four.

All lying south of a straight line including the central line of Eighth street, as the same now exists, and west of a straight line including the central line of Washington street, as the same now exists, shall become part of Representative District number five.

In case of any change in the boundary line between this State and the State of Pennsylvania any of the said Senatorial and Representative Districts in New Castle County affected thereby shall conform to any new boundary line between the said states.

All territory which shall hereafter be added to and included within the City of Wilmington shall become part of the Senatorial Districts in New Castle County as follows:

All lying north of a straight line including the central line of Eighth street, extended from the Delaware River westwardly, shall become part of Senatorial District number one.

All lying south of a straight line including the central line of Eighth street, extended from the Delaware River westwardly, shall become part of Senatorial District number two.

Whenever by the extension of the limits of the City of Wilmington territory forming part of any Representative or Senatorial District, as hereby established, shall be included within the limits of the said city, such Representative or Senatorial District shall thereafter consist of the residue thereof, not so included within said limits.

The several Representative and Senatorial Districts in the State shall, except as herein otherwise provided, continue to be bounded, described and defined by the lines of the hundreds, wards, election district, public roads, railroad and other boundaries herein mentioned, as the same are now established and located.

SECTION 3. No person shall be a Senator who shall not have attained the age of twenty-seven years and have been a citizen and inhabitant of the State three years next preceding the day of his election and the last year of that term an inhabitant of the Senatorial District in which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State. No person shall be a Representative who shall not have attained the age of twenty-four years, and have been a citizen and inhabitant of the State three years next preceding the

day of his election, and the last year of that term an inhabitant of the Representative District in which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State.

SECTION 4. The General Assembly shall meet on the first Tuesday of January, biennially, and at such other times as the Governor shall convene the same.

SECTION 5. The General Assembly shall meet and sit in Dover, the capital of the State; provided, however, that in case of insurrection, conflagration or epidemic disease the General Assembly may temporarily meet and sit elsewhere.

SECTION 6. Whenever there shall be a vacancy in either House of the General Assembly, by reason of failure to elect, ineligibility, death, resignation or otherwise, a writ of election shall be issued by the presiding officer of the House in which the vacancy exists, or in case of necessity in such other manner as shall be provided by law; and the person thereupon chosen to fill such vacancy shall hold office for the residue of the term. And whenever there shall be such vacancy in either House, and the General Assembly is not in session, the Governor shall have power to issue a writ of election to fill such vacancy, which writ shall be executed as a writ issued by the presiding officer of either House in case of vacancy, and the person thereupon chosen to fill such vacancy shall hold office for the residue of the term.

SECTION 7. The Senate at each biennial session shall choose one of its members president pro tempore, who shall preside in the absence of the Lieutenant-Governor, or in case the latter shall become Governor or while he continues in the exercise of the office of Governor by reason of disability of the Governor. The Senate shall also choose its other officers and in the absence of the Lieutenant-Governor and its president pro tempore may, from time to time, as occasions may require, appoint one of its members to preside. The House of Representatives shall choose one of its members speaker and also choose its other officers, and in the absence of the speaker may, from time to time as occasion may require, appoint one of its members to preside.

SECTION 8. Each House shall be the judge of the elections, returns and qualifications of its own members; and a majority of all the members elected to each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall have

power to compel the attendance of absent members, in such manner, and under such penalties, as shall be deemed expedient.

SECTION 9. Each House may determine the rules of its proceedings, punish any of its members for disorderly behavior, and with the concurrence of two-thirds of all the members elected thereto expel a member, and shall have all other powers necessary for a branch of the Legislature of a free and independent State.

SECTION 10. Each House shall keep a journal of its proceedings, and publish the same immediately after every session, except such parts as may require secrecy, and the yeas and nays of the members on any question shall, at the desire of any member, be entered on the journal. No bill or joint resolution, except in relation to adjournment, shall pass either House unless the final vote shall have been taken by yeas and nays, and the names of the members voting for and against the same shall be entered on the journal, nor without the concurrence of a majority of all the members elected to each House.

SECTION 11. The doors of each House, and of Committees of the Whole, shall be open unless when the business is such as ought to be kept secret.

SECTION 12. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION 13. The Senators and Representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

SECTION 14. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased, during such time. No member of Congress, nor any person holding any office under this State, or the United States, except officers usually appointed by the courts of justice respectively, attorneys-at-law and officers in the militia, holding no disqualifying office, shall during his continuance in Congress or in office be a Senator or Representative; nor shall any person while concerned in any army or navy contract be a Senator or Representative.

SECTION 15. The members of the General Assembly, except the presiding officers of the respective Houses, shall receive as compensation for their services a per diem allowance of five dollars, and the presiding officers a per diem allowance of six dollars for each day of the session, not exceeding sixty days; and should they remain longer in session they shall serve without compensation. In case a special or extra session of the General Assembly be called the members and presiding officers shall receive like compensation for a period not exceeding thirty days.

The compensation of members of the General Assembly and of the Lieutenant-Governor as president of the Senate shall be paid out of the Treasury of the State.

The cost to the State for stationery and other supplies for each member of the General Assembly shall not exceed the sum of twenty-five dollars for any regular session, or the sum of ten dollars for any special session.

SECTION 16. No bill or joint resolution, except bills appropriating money for public purposes, shall embrace more than one subject, which shall be expressed in its title.

SECTION 17. Lotteries, the sale of lottery tickets, pool selling and all other forms of gambling are prohibited in this State. The General Assembly shall enforce this section by appropriate legislation.

SECTION 18. No divorce shall be granted, nor alimony allowed, except by the judgment of a court, as shall be prescribed by general and uniform law.

SECTION 19. The General Assembly shall not pass any local or special law relating to fences; the straying of live stock; ditches; the creation or changing the boundaries of school districts; or the laying out, opening, alteration, maintenance or vacation, in whole or in part, of any road, highway, street, lane or alley.

SECTION 20. Any member of the General Assembly who has a personal or private interest in any measure or bill pending in the General Assembly shall disclose the fact to the House of which he is a member and shall not vote thereon.

SECTION 21. No person who shall be convicted of embezzlement of the public money, bribery, perjury or other infamous crime, shall be eligible to a seat in either House of the General Assembly, or capable of holding any office of trust, honor or profit under this State.

SECTION 22. Every person who shall give, offer or promise, directly or indirectly, any money, testimonial, privilege, personal advantage or thing of value to any executive or judicial officer of this State or to any member of either House of the General Assembly for the purpose of influencing him in the performance of any of his official or public duties shall be deemed guilty of bribery, and shall be punished in such manner as shall be provided by law.

SECTION 23. Every statute shall be a public law unless otherwise declared in the statute itself.

SECTION 24. The State Treasurer shall settle his accounts annually with the General Assembly or a joint committee thereof, which shall be appointed at every biennial session. No person who has served in the office of State Treasury shall be eligible to a seat in either House of the General Assembly until he shall have made a final settlement of his accounts as treasurer and discharged the balance, if any, due thereon.

### ARTICLE III. EXECUTIVE

SECTION 1. The supreme executive powers of the State shall be vested in a Governor.

SECTION 2. The Governor shall be chosen by the qualified electors of the State, once in every four years, at the general election.

SECTION 3. The returns of every election for Governor shall be sealed up and immediately transmitted to the President of the Senate, or in case of a vacancy in the office of President of the Senate, or his absence from the State, to the Secretary of State, who shall keep the same until a President of the Senate shall be chosen, to whom they shall be immediately transmitted after his election, who shall open and publish the same in the presence of the members of both Houses of the General Assembly. Duplicates of the said returns shall also be immediately lodged with the Prothonotary of each county. The person having the highest number of votes shall be Governor; but if two or more shall be equal in the highest number of votes, the members of the two Houses shall, by joint ballot, choose one of them to be Governor; and if, upon such ballot, two or more of them shall still be equal and highest in votes, the President of the Senate shall have the casting vote.

SECTION 4. Contested elections of the Governor or Lieutenant-Gov-

ernor shall be determined by a joint committee, consisting of one-third of all the members elected to each House of the General Assembly, to be selected by ballot of the Houses respectively. Every member of the committee shall take an oath or affirmation that in determining the said election he will faithfully discharge the trust reposed in him; and the committee shall always sit with open doors.

The Chief Justice, or, in case of his absence or disability, the Chancellor shall preside at the trial of any contested election of Governor or Lieutenant-Governor, and shall decide questions regarding the admissibility of evidence, and shall, upon request of the committee, pronounce his opinion upon other questions of law involved in the trial.

SECTION 5. The Governor shall hold his office during four years from the third Tuesday of January next ensuing his election; and shall not be elected a third time to said office.

SECTION 6. The Governor shall be at least thirty years of age, and have been a citizen and inhabitant of the United States twelve years next before the day of his election, and the last six years of that term an inhabitant of this State, unless he shall have been absent on public business of the United States or of this State.

SECTION 7. The Governor shall, at stated times, receive for his services an adequate salary to be fixed by law, which shall be neither increased nor diminished during the period for which he shall have been elected.

SECTION 8. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SECTION 9. He shall have power, unless herein otherwise provided, to appoint, by and with the consent of a majority of all the members elected to the Senate, such officers as he is or may be authorized by this Constitution or by law to appoint. He shall have power to fill all vacancies that may happen during the recess of the Senate, in offices to which he may appoint, except in the offices of Chancellor, Chief Justice and Associate Judges, by granting Commissions which shall expire at the end of the next session of the Senate.

He shall have power to fill all vacancies that may happen in elective offices, except in the offices of Lieutenant-Governor and members of the General Assembly, by granting Commissions which shall expire when their successors shall be duly qualified.

In case of vacancy in an elective office, except as aforesaid, a person shall be chosen to said office for the full term at the next general election, unless the vacancy shall happen within two months next before such election, in which case the election for said office shall be held at the second succeeding general election.

Unless herein otherwise provided, confirmation by the Senate of officers appointed by the Governor shall be required only where the salary, fees and emoluments of office shall exceed the sum of five hundred dollars annually.

SECTION 10. The Governor shall appoint, by and with the consent of a majority of all the members elected to the Senate, a Secretary of State, who shall hold office during the pleasure of the Governor. He shall keep a fair register of all the official acts and proceedings of the Governor, and shall, when required by either House of the General Assembly lay the same, and all papers, minutes and vouchers, relative thereto, before such House, and shall perform such other duties as shall be enjoined upon him by law. He shall have a compensation for his services to be fixed by law.

SECTION 11. No person shall be elected or appointed to an office within a county who shall not have a right to vote for a Representative in the General Assembly, and have been a resident therein one year next before his election or appointment, nor hold the office longer than he continues to reside in the county, unless herein otherwise provided.

No member of Congress, nor any person holding or exercising any office under the United States, except officers usually appointed by the courts of justice respectively and attorneys-at-law, shall at the same time hold or exercise any office of profit under this State, unless herein otherwise provided.

No person shall hold more than one of the following offices at the same time, to wit: Secretary of State, Attorney-General, Insurance Commissioner, State Treasurer, Auditor of Accounts, Prothonotary, Clerk of the Peace, Register of Wills, Recorder, Sheriff or Coroner.

SECTION 12. All Commissions shall be in the name of the State, and shall be sealed with the great seal and signed by the Governor.

SECTION 13. The Governor may for any reasonable cause remove any officer, except the Lieutenant-Governor and members of the General Assembly, upon the address of two-thirds of all the members elected to each House of the General Assembly. Whenever the General Assembly



shall so address the Governor, the cause of removal shall be entered on the journals of each House. The person against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied with the cause alleged for his removal, at least ten days before the day on which either House of the General Assembly shall act thereon.

SECTION 14. The Governor may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SECTION 15. He shall, from time to time, give to the General Assembly information of affairs concerning the State and recommend to its consideration such measures as he shall judge expedient.

SECTION 16. He may on extraordinary occasions convene the General Assembly by proclamation; and in case of disagreement between the two Houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding three months. He shall have power to convene the Senate in extraordinary session by proclamation, for the transaction of executive business.

SECTION 17. He shall take care that the laws be faithfully executed.

SECTION 18. Every bill which shall have passed both Houses of the General Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if he shall not approve, he shall return it with his objections to the House in which it shall have originated, which House shall enter the objections at large on the journal and proceed to reconsider it. If, after such reconsideration, three-fifths of all the members elected to that House shall agree to pass the bill, it shall be sent together with the objections to the other House, by which it shall likewise be reconsidered, and if approved by three-fifths of all the members elected to that House, it shall become a law: but in neither House shall the vote be taken on the day on which the bill shall be returned to it. In all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within ten days, Sundays excepted, after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the General Assembly shall, by adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall be-

come a law after the final adjournment of the General Assembly, unless approved by the Governor within thirty days after such adjournment. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the Executive veto. Every order, resolution, or vote to which the concurrence of both Houses of the General Assembly may be necessary, except on a question of adjournment, shall be presented to the Governor, and before the same shall take effect be approved by him, or, being disapproved by him, shall be repassed by three-fifths of all the members elected to each House of the General Assembly, according to the rules and limitations prescribed in the case of a bill.

SECTION 19. A Lieutenant-Governor shall be chosen at the same time, in the same manner, for the same term, and subject to the same provisions as the Governor; he shall possess the same qualifications of eligibility for office as the Governor; he shall be President of the Senate, but shall have no vote unless the Senate be equally divided.

The Lieutenant-Governor while acting as President of the Senate, or as a member of the Board of Pardons, whenever attending the sessions of said Board, shall receive for his services the same compensation per day as the Speaker of the House of Representatives.

SECTION 20. In case the person elected Governor shall die or become disqualified before the commencement of his term of office, or shall refuse to take the same, or in case of the removal of the Governor from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Lieutenant-Governor; and in case of removal, death, resignation, or inability of both the Governor and Lieutenant-Governor, the Secretary of State, or if there be none, or in case of his removal, death, resignation, or inability, then the Attorney-General, or if there be none, or in case of his removal, death, resignation, or inability, then the President pro tempore of the Senate, or if there be none, or in case of his removal, death, resignation, or inability, then the Speaker of the House of Representatives shall act as Governor until the disability of the Governor or Lieutenant-Governor is removed, or a Governor shall be duly elected and qualified.

The foregoing provisions of this section shall apply only to such persons as are eligible to the office of Governor under this Constitution at the time the powers and duties of the office of Governor shall devolve upon them respectively.

Whenever the powers and duties of the office of Governor shall devolve upon the Lieutenant-Governor, Secretary of State, or Attorney-General, his office shall become vacant; and whenever the powers and duties of the office of Governor shall devolve upon the President pro tempore of the Senate, or the Speaker of the House of Representatives, his seat as a member of the General Assembly shall become vacant; and any such vacancy shall be filled as directed by this Constitution; provided, however, that such vacancy shall not be created in case either of the said persons shall be acting as Governor during a temporary disability of the Governor.

SECTION 21. The term of office of the Attorney-General and Insurance Commissioner shall be four years; and the terms of office of the State Treasurer and Auditor of Accounts shall be two years. These officers shall be chosen by the qualified electors of the State at general elections, and be commissioned by the Governor.

SECTION 22. The terms of office of Prothonotaries, Clerks of the Peace, Registers of Wills, Recorders, Registers in Chancery and Clerks of the Orphans' Court shall be four years; and the terms of office of Sheriffs and Coroners shall be two years. These officers shall be chosen by the qualified electors of the respective counties at general elections, and be commissioned by the Governor.

No person shall be twice elected Sheriff in any term of four years.

SECTION 23. Prothonotaries, Clerks of the Peace, Registers of Wills, Recorders, Registers in Chancery, Clerks of the Orphans' Court and Sheriffs shall keep their offices in the town or place in each county in which the Superior Court is usually held.

#### ARTICLE IV. JUDICIARY

SECTION 1. The judicial power of this State shall be vested in a Supreme Court, a Superior Court, a Court of Chancery, an Orphans' Court, a Court of Oyer and Terminer, a Court of General Sessions, a Register's Court, Justices of the Peace and such other courts as the

General Assembly, with the concurrence of two-thirds of all the members elected to each House, shall from time to time by law establish.

SECTION 2. There shall be six State Judges who shall be learned in the law. One of them shall be Chancellor, one of them Chief Justice and the other four of them Associate Judges.

The Chancellor, Chief Justice and one of the Associate Judges may be appointed from and reside in any part of the State. The other three Associate Judges may be appointed from any part of the State. They shall be resident Associate Judges, and one of them shall reside in each county.

In case the commissions of two or more of the Associate Judges shall be of the same date, they shall, as soon as conveniently may be after their appointment, determine their seniority by lot, and certify the result to the Governor.

SECTION 3. The Chancellor, Chief Justice and Associate Judges shall be appointed by the Governor, by and with the consent of a majority of all the members elected to the Senate, for the term of twelve years: Provided, however, that the Chancellor, Chief Justice and Associate Judges first to be appointed under this amended Constitution, shall be appointed by the Governor without the consent of the Senate, for the term of twelve years; and the persons so appointed shall enter upon the discharge of the duties of their respective offices upon taking the oath of office prescribed by this amended Constitution. If a vacancy shall occur, by expiration of term or otherwise, at a time when the Senate shall not be in session, the Governor shall within thirty days after the happening of any such vacancy convene the Senate for the purpose of confirming his appointment to fill said vacancy, and the transaction of such other executive business as may come before it. Such vacancy shall be filled as aforesaid for the full term. The said appointment shall be such that no more than three of the said five law judges, in office at the same time, shall have been appointed from the same political party.

SECTION 4. The Chancellor, Chief Justice and Associate Judges shall respectively receive from the State for their services a compensation which shall be fixed by law and paid quarterly, and shall not be less than the annual sum of three thousand dollars, and they shall not receive any fees or perquisites in addition to their salaries for business done by them except as provided by law. They shall hold no other office of profit.

SECTION 5. The Chief Justice and the four Associate Judges shall compose the Superior Court, the Court of General Sessions and the Court of Oyer and Terminer, as hereinafter prescribed.

The said five judges shall designate those of their number who shall hold the said courts in the several counties. Whenever practicable the said courts shall consist of three of the said five judges, but no more than three of them shall sit together in any of the said courts. In each of the said courts the Chief Justice when present shall preside, and in his absence the senior Associate Judge present shall preside.

Two shall constitute a quorum in the said courts respectively except in the Court of Oyer and Terminer, where three shall constitute a quorum.

One may open and adjourn court.

SECTION 6. Two sessions of the Superior Court or Court of General Sessions, or one session of each of the said courts, or one session of the Court of Oyer and Terminer and of either of the other of the said courts may at the same time be held in the same county or in different counties, and the business in the several counties may be distributed and apportioned in such manner as shall be provided by the rules of the said courts respectively.

SECTION 7. The Superior Court shall have jurisdiction of all causes of a civil nature, real, personal and mixed, at common law and all other the jurisdiction and powers vested by the laws of this State in the Superior Court.

SECTION 8. The Courts of General Sessions shall have all the jurisdiction and powers vested by the laws of this State in the Courts of General Sessions of the Peace and Jail Delivery.

SECTION 9. The Court of Oyer and Terminer shall have all the jurisdiction and powers vested by the laws of this State in the Court of Oyer and Terminer.

SECTION 10. The Chancellor shall hold the Court of Chancery. This court shall have all the jurisdiction and powers vested by the laws of this State in the Court of Chancery.

SECTION 11. The Orphans' Court in each County shall consist of the Chancellor and the resident Associate Judge of the county. The Chancellor when present shall preside. One of them shall constitute a quorum.

When their opinions are opposed, or when the decision is made by one of them, or when the decision is made by both of them in matters involving a right to real estate or the appraised value or other value thereof, and in all matters affecting guardians or guardians' accounts, there shall be an appeal to the Superior Court for the county, which shall have final Jurisdiction in every such case. Upon such appeal, if the Associate Judge sat in the cause below, he shall not sit in the Superior Court. In all other cases the decision of the Orphans' Court shall be final.

This court shall have all the jurisdiction and powers vested by the laws of this State in the Orphans' Court.

SECTION 12. The Supreme Court shall have jurisdiction as follows:

(1). To issue writs of error to the Superior Court and to determine finally all matters in error in the judgments and proceedings of said Superior Court.

(2). To issue upon application of the accused, after conviction and sentence, writs of error to the Court of Oyer and Terminer and the Court of General Sessions in all cases in which the sentence shall be death, imprisonment exceeding one month, or fine exceeding one hundred dollars, and in such other cases as shall be provided by law; and to determine finally all matters in error in the judgments and proceedings of said Court of Oyer and Terminer and Court of General Sessions in such cases; provided, however, that there shall be no writ of error to the Court of General Sessions in cases of prosecution under Section 8 of Article V of this Constitution.

(3). To receive appeals from the Court of General Sessions in cases of prosecution under Section 8 of Article V of this Constitution, and to determine finally all matters of appeal in such cases.

(4). To receive appeals from the Court of Chancery, and to determine finally all matters of appeals in the interlocutory or final decrees and to proceedings in chancery.

(5). To issue writs of prohibition, certiorari and mandamus to the Superior Court, the Court of Oyer and Terminer, the Court of General Sessions, the Court of Chancery and the Orphans' Court, or any of the judges of the said courts, and all orders, rules and processes proper to give effect to the same. The General Assembly shall have power to provide by law of what judges the Supreme Court shall consist for the

purpose of this paragraph and in what manner, and by what judges of the Supreme Court the jurisdiction and power hereby conferred may be exercised in vacation.

SECTION 13. The Supreme Court upon a writ of error to the Superior Court, Court of Oyer and Terminer, or Court of General Sessions, or upon appeal from the Court of General Sessions, shall consist of the Chancellor and such of the other five judges as did not sit in the cause below. The Chancellor when present shall preside, and in his absence the Chief Justice when present shall preside, and in his absence the senior Associate Judge present shall preside. Any three of them shall constitute a quorum, and one of them may open and adjourn court.

SECTION 14. The Supreme Court upon an appeal from the Court of Chancery shall consist of the Chief Justice and the four Associate Judges.

The Chief Justice when present shall preside, and in his absence the senior Associate Judge present shall preside. Any three of them shall constitute a quorum, and one of them may open and adjourn court.

SECTION 15. Whenever the Superior Court, Court of Oyer and Terminer or Court of General Sessions shall consider that a question of law ought to be heard by the Court in Banc, they shall have power, upon application of either party, to direct it to be so heard; and in that case the Court in Banc shall consist of the Chief Justice and the four Associate Judges.

The Chief Justice when present shall preside, and in his absence the senior Associate Judge present shall preside. Any four of them shall constitute a quorum, and one of them may open and adjourn court.

The Superior Court, Court of Oyer and Terminer or Court of General Sessions in exercising this power, may direct a cause to be proceeded into verdict or judgment in that court, or to be otherwise proceeded in, as shall be best for expediting justice.

SECTION 16. In matters of chancery jurisdiction in which the Chancellor is interested or otherwise disqualified, the Chief Justice shall have jurisdiction, and there shall be an appeal to the Supreme Court, which shall in this case consist of the four Associate Judges, the senior Associate Judge present presiding. Any three of them shall constitute a quorum, and one of them may open and adjourn court.

SECTION 17. The Chief Justice, or, in case of his absence from the State or disability, the senior Associate Judge shall have power during

the absence of the Chancellor from the State or his temporary disability, to grant restraining orders and preliminary injunctions, pursuant to the rules of the Court of Chancery; provided, that nothing herein contained shall be construed to confer general jurisdiction over the case.

SECTION 18. The Governor shall have power to commission a judge ad litem for the purpose of constituting a quorum in the Superior Court, Court of Oyer and Terminer, Court of General Sessions or Supreme Court, where by reason of legal exception to the Chancellor or any judge or for other cause a quorum could not otherwise be had. The commission in such case shall confine the office to the cause, and it shall expire on the determination of the cause. The judge so appointed shall receive a reasonable compensation to be fixed by the General Assembly. A member of Congress, or any person holding or exercising an office under the United States, shall not be disqualified from being appointed a judge ad litem.

SECTION 19. The jurisdiction of each of the aforesaid courts shall be co-extensive with the State. Process may be issued out of each court, in either county, into every county. No costs shall be awarded against any party to a cause by reason of the fact that suit is brought in a county other than that in which the defendant or defendants may reside at the time of bringing suit.

SECTION 20. The General Assembly, notwithstanding anything contained in this Article, shall have power to repeal or alter any act of the General Assembly, giving jurisdiction to the Court of Oyer and Terminer, the Superior Court, the Court of General Sessions of the Peace and Jail Delivery, the Orphans' Court or the Court of Chancery, in any matter, or giving any power to either of the said courts. The General Assembly shall also have power to confer upon the Courts of Oyer and Terminer, the Superior Court, the Court of General Sessions, the Orphans' Court and the Court of Chancery jurisdiction and powers in addition to those hereinbefore mentioned. Until the General Assembly shall otherwise direct, there shall be an appeal to the Supreme Court in all cases in which there is an appeal, according to any act of the General Assembly, to the Court of Errors and Appeals.

SECTION 21. Until the General Assembly shall otherwise provide, the Chancellor shall exercise all the powers which any law of this State vests in the Chancellor, besides the general powers of the Court of Chancery,



and the Chief Justice and Associate Judges shall each singly exercise all the powers which any law of this State vests in the judges singly of the Superior Court.

SECTION 22. Judges shall not charge juries with respect to matters of fact, but may state the questions of facts in issue and declare the law.

SECTION 23. In civil causes where matters of fact are at issue, if the parties agree, such matters of fact shall be tried by the court, and judgment rendered upon their decision thereon as upon a verdict by a jury.

SECTION 24. In civil causes, when pending, the Superior Court shall have the power, before judgment, of directing, upon such terms as it shall deem reasonable, amendments, pleadings and legal proceedings, so that by error in any of them, the determination of causes, according to their real merits, shall not be hindered; and also of directing the examination of witnesses who are aged, very infirm, or going out of the State, upon interrogatories *de bene esse*, to be read in evidence, in case of the death or departure of the witnesses before the trial, or inability by reason of age, sickness, bodily infirmity, or imprisonment, then to attend; and also the power of obtaining evidence from places not within the State.

SECTION 25. At any time pending an action for debt or damages, the defendants may bring into court a sum of money for discharging the same, together with the costs then accrued, and the plaintiff not accepting the same, if upon the final decision of the cause, he shall not recover a greater sum than so paid into court for him, he shall not recover any costs accruing after such payment, except where the plaintiff is an executor or administrator.

SECTION 26. By the death of any party, no suit in chancery or at law, where the cause of action survives, shall abate, but, until the General Assembly shall otherwise provide, suggestion of such death being entered of record, the executor or administrator of a deceased petitioner or plaintiff may prosecute the said suit; and if a respondent or defendant dies, the executor or administrator being duly served with a *scire facias* thirty days before the return thereof shall be considered as a party to the suit, in the same manner as if he had voluntarily made himself a party; and in any of those cases, the court shall pass a decree, or render judgment for or against executors or administrators, as to right appertains. But where an executor or administrator of a deceased respondent or

defendant becomes a party, the court upon motion shall grant such a continuance of the cause as to the judges shall appear proper.

SECTION 27. Whenever a person, not being an executor or administrator, appeals from a decree of the Chancellor, or applies for a writ of error, such appeal or writ shall be no stay of proceeding in chancery, or the court to which the writ issues, unless the appellant or plaintiff in error shall give sufficient security, to be approved respectively by the Chancellor, or by a judge of the court from which the writ issues, that the appellant or plaintiff in error shall prosecute respectively his appeal or writ to effect, and pay the condemnation money and all costs, or otherwise abide the decree in appeal or the judgment in error, if he fails to make his plea good.

SECTION 28. No writ or error shall be brought upon any judgment heretofore confessed, entered or rendered, or upon any judgment hereafter to be confessed, entered or rendered, but within five years after the confessing, entering or rendering thereof; unless the person entitled to such writ be an infant, feme covert, non compos mentis, or a prisoner, and then within five years exclusive of the time of such disability.

SECTION 29. The Prothonotary of the Superior Court may issue process, take recognizances of bail and enter judgments, according to law and the practice of the court. No judgment in one county shall bind lands or tenements in another, until a testatum fieri facias being issued, shall be entered of record in the office of the Prothonotary of the county wherein the lands or tenements are situate.

SECTION 30. The General Assembly may by law give to any inferior courts by it established or to be established, or to one or more justices of the peace, jurisdiction of the criminal matters following, that is to say: assaults and batteries, keeping without license a public house of entertainment, tavern, inn, ale house, ordinary or victualing house, retailing or selling without license, or on Sunday, or to minors, wine, rum, brandy, gin, whiskey, or spirituous or mixed liquors, contrary to law, carrying concealed a deadly weapon, disturbing meetings held for the purpose of religious worship, nuisances, and such other misdemeanors as the General Assembly may from time to time, with the concurrence of two-thirds of all the members elected to each House prescribe.

The General Assembly may by law regulate this jurisdiction, and provide that the proceedings shall be with or without indictment by grand

jury, or trial by petit jury, and may grant or deny the privilege of appeal to the Court of General Sessions; provided, however, that there shall be an appeal to the Court of General Sessions in all cases in which the sentence shall be imprisonment exceeding one month, or a fine exceeding one hundred dollars.

SECTION 31. There shall be appointed, as hereinafter provided, such number of persons to the office of Justice of the Peace as shall be directed by law, who shall be commissioned for four years.

SECTION 32. Justices of the Peace and the judges of such courts as the General Assembly may establish pursuant to the provisions of Section 1 or Section 30 of this Article shall be appointed by the Governor, by and with the consent of a majority of all the members elected to the Senate, for such terms as shall be fixed by this Constitution or by law.

SECTION 33. The Registers of Wills of the several counties shall respectively hold the Register's Court in each county. Upon the litigation of a cause the depositions of the witnesses examined shall be taken at large in writing and make part of the proceedings in the cause. This court may issue process throughout the State. Appeals may be taken from a Register's Court to the Superior Court, whose decision shall be final. In cases where a Register of Wills is interested in questions concerning the probate of wills, the granting of letters of administration or executors' or administrators' accounts, the cognizance thereof shall belong to the Orphans' Court, with an appeal to the Superior Court, whose decision shall be final.

SECTION 34. An executor or administrator shall file every account with the Register of Wills for the county, who shall, as soon as conveniently may be, carefully examine the particulars with the proofs thereof, in the presence of such executor or administrator, and shall adjust and settle the same according to the right of the matter and the law of the land; which account so settled shall remain in his office for inspection; and the executor, or administrator, shall within three months after such settlement give notice in writing to all persons entitled to shares of the estate, or to their guardians, respectively, if residing within the State, that the account is lodged in the said office for inspection.

Exceptions may be made by persons concerned to both sides of every such account, either denying the justice of the allowances made to the accountant or alleging further charges against him; and the exceptions

shall be heard in the Orphans' Court for the county: and thereupon the account shall be adjusted and settled according to the right of the matter and law of the land.

SECTION 35. The style in all process and public acts shall be THE STATE OF DELAWARE. Prosecutions shall be carried on in the name of the State.

## ARTICLE V. ELECTIONS

SECTION 1. The general election shall be held biennially on the Tuesday next after the first Monday in the month of November, and shall be by ballot; but the General Assembly may by law prescribe the means, methods and instruments of voting so as best to secure secrecy and the independence of the voter, preserve the freedom and purity of elections and prevent fraud, corruption and intimidation thereat.

SECTION 2. Every male citizen of this State of the age of twenty-one years who shall have been a resident thereof one year next preceding an election, and for the last three months a resident of the county, and for the last thirty days a resident of the hundred or election district in which he may offer to vote, and in which he shall have been duly registered as hereinafter provided for, shall be entitled to vote at such election in the hundred or election district of which he shall at the time be a resident, and in which he shall be registered, for all officers that now are or hereafter may be elected by the people and upon all questions which may be submitted to the vote of the people: provided, however, that no person who shall attain the age of twenty-one years after the first day of January, in the year of our Lord nineteen hundred, or after that date shall become a citizen of the United States, shall have the right to vote unless he shall be able to read this Constitution in the English language and write his name; but these requirements shall not apply to any person who by reason of physical disability shall be unable to comply therewith; and provided also, that no person in the military, naval, or marine service of the United States shall be considered as acquiring a residence in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no idiot or insane person, pauper, or person convicted of a crime deemed by law felony, or incapacitated under the provisions of this Constitution from voting, shall enjoy the

right of an elector; and the General Assembly may impose the forfeiture of the right of suffrage as a punishment for crime.

SECTION 3. No person who shall receive or accept, or offer to receive or accept, or shall pay, transfer, or deliver, or offer or promise to pay, transfer, or deliver, or shall contribute, or offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation, inducement or reward for the registering or obtaining from registering of any one qualified to register, or for the giving or withholding, or in any manner influencing the giving or withholding, a vote at any general or special or municipal election in this State, shall vote at such election; and upon challenge for any of said causes, the person so challenged before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or accepted, or offered to receive or accept, or paid, transferred or delivered, or offered or promised to pay, transfer or deliver, or contributed, or offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation, inducement or reward for the registering or abstaining from registering of any one qualified to register, or for the giving or withholding, or in any manner influencing the giving or withholding, a vote at such election.

Such oath or affirmation shall be conclusive evidence to the election officers of the truth of such oath or affirmation; but if any such oath or affirmation shall be false, the person making the same shall be guilty of perjury, and no conviction thereof shall bar any prosecution under Section 8 of this Article.

SECTION 4. The General Assembly shall provide by law for a uniform biennial registration of the names of all the voters in this State who possess the qualifications prescribed in this Article, which registration shall be conclusive evidence to the election officers of the right of every person so registered to vote at the general election next thereafter, who is not disqualified under the provision of Section 3 of this Article; but no person shall vote at such election unless his name appears in the list of registered voters.

Such registration shall be commenced not more than one hundred and twenty days nor less than sixty days before and be completed not more than twenty nor less than ten days before such election. Application for registration may be made on at least five days during the said

period; provided, however, that such registration may be corrected as hereinafter provided, at any time prior to the day of holding the election.

Voters shall be registered upon personal application only; and each voter shall, at the time of his registration, pay a registration fee of one dollar, for the use of the county where such registration fee is paid.

From the decision of the registration officers granting or refusing registration, or striking or refusing to strike a name or names from the registration list, any person interested, or any registration officer, may appeal to the resident Associate Judge of the county, or in case of his disability or absence from the county, to any judge entitled to sit in the Supreme Court, whose determination shall be final; and he shall have power to order any name improperly omitted from the said registry to be placed thereon, and any name improperly appearing on the said registry to be stricken therefrom, and any name appearing on the said registry, in any manner incorrect, to be corrected, and to make and enforce all necessary orders in the premises for the correction of the said registry. Registration shall be required only for general biennial elections at which Representatives to the General Assembly shall be chosen, unless the General Assembly shall otherwise provide by law.

The existing laws in reference to the registration of voters, so far as consistent with the provisions of the Article, shall continue in force until the General Assembly shall otherwise provide.

SECTION 5. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest, during their attendance at elections, and in going to and returning from them.

✓ SECTION 6. The presiding election officer of each hundred or election district, on the day next after the general election, shall deliver one of the certificates of the election, made and certified as required by law, together with the ballot box or ballot boxes, containing the ballots, and other papers required by law to be placed therein, to the Prothonotary of the Superior Court of the county, who shall at twelve o'clock noon on the second day after the election present the same to the said court, and the election officer or officers having charge of any other certificate or certificates of the election shall at the same time present the same to the said court, and the said court shall at the same time convene for the performance of the duties hereby imposed upon it; and thereupon the said court, with the aid of such of its officers and such sworn assistants as it shall

appoint, shall publicly ascertain the state of the election throughout the county, by calculating the aggregate amount of all the votes for each office that shall be given in all the hundreds and election districts of the county for every person voted for for such office.

In case the certificates of election of any hundred or election district shall not be produced, or in case the certificates produced do not agree, or in case of complaint under oath of fraud or mistake in any such certificate, or in case fraud or mistake is apparent on the face of any such certificate, the court shall have power to issue summary process against the election officers or any other persons to bring them forthwith into court with the election papers in their possession or control, and to open the ballot boxes and take therefrom any paper contained therein, and to make a re-count of the ballots contained therein, and to correct any fraud or mistake in any certificate or paper relating to such election.

The said court shall have all the other jurisdiction and powers now vested by law in the boards of canvass, and such other powers as shall be provided by law.

After the state of the election shall have been ascertained as aforesaid, the said court shall make certificates thereof, under the seal of said court, in the form required by law, and transmit, deliver and lodge the same as required by this Constitution or by law, and deliver the ballot boxes to the sheriff of the county, to be by him kept and delivered as required by law.

No act or determination of the court in the discharge of the duties imposed upon it by this section shall be conclusive in the trial of any contested election.

For the purposes of this section the Superior Court shall consist in New Castle County of the Chief Justice and the resident Associate Judge; in Kent County of the Chancellor and the resident Associate Judge; and in Sussex County of the resident Associate Judge and the remaining Associate Judge.

Two shall constitute a quorum. The Governor shall have power to commission a judge for the purpose of constituting a quorum when by reason of legal exception to the Chancellor or any judge, or for any other cause, a quorum could not otherwise be had.

SECTION 7. Every person who either in or out of the State shall receive or accept, or offer to receive or accept, or shall pay, transfer or deliver, or offer or promise to pay, transfer or deliver, or shall contribute, or offer

or promise to contribute, to another to be paid or used, any money or other valuable thing as a compensation, inducement or reward for the giving or withholding, or in any manner influencing the giving or withholding, a vote at any general, special, or municipal election in this State, or at any primary election, convention or meeting held for the purpose of nominating any candidate or candidates to be voted for at such general, special or municipal election; or who either in or out of the State shall make or become directly or indirectly a party to any bet or wager depending upon the result of any such general, special, municipal or primary election or convention or meeting, or upon a vote thereat by any person; or who either in or out of the State, shall, by the use or promise of money or other valuable thing, or otherwise, cause or attempt to cause any officer of election or registration officer to violate his official duty; or who either in or out of the State shall by the use or promise of money or other valuable thing influence or attempt to influence any person to be registered or abstain from being registered; or who, being an officer, of election or registration officer, shall knowingly and wilfully violate his official duty; or who shall by force, threat, menace or intimidation, prevent or hinder, or attempt to prevent or hinder, any person qualified for registration from being registered or any person qualified to vote from voting according to his choice at any such general, special or municipal election, shall be deemed guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five thousand dollars, or shall be imprisoned for a term not less than one month nor more than three years, or shall suffer both fine and imprisonment within said limits, at the discretion of the court; and, if a male, shall further for a term of ten years next following his sentence be incapable of voting at any such general, special, municipal or primary election or convention or meeting; but the penalty of disfranchisement shall not apply to any person making or being a party to any bet or wager, depending upon the result of any such general, special, municipal or primary election or convention or meeting. Every person charged with the commission while out of the State of any of the offenses enumerated in this section, and by this section made punishable, whether committed in or out of the State, may be prosecuted under Section 8 of this Article in any county in which he shall be arrested on such charge. No person other than the accused, shall, in the prosecution for any offense mentioned in this section, be permitted



to withhold his testimony on the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony.

SECTION 8. Every prosecution for any of the offenses mentioned in Section 7 of this Article shall be on information filed by the Attorney General, after examination and commitment or holding to bail by a judge or Justice of the Peace, and the cause shall be heard, tried and determined by the court without the intervention of either a grand jury or petit jury. The accused, if adjudged guilty of the offense charged against him, shall have the right at any time within the space of three calendar months next after sentence is pronounced to an appeal to the Supreme Court. The court below, or any judge thereof, in term time or vacation, shall upon application by the accused allow such appeal; but such appeal shall not operate as a supersedeas unless the appellant shall at the time of the allowance thereof give an appeal bond to the State of Delaware in such amount and with such surety as shall be approved by such court or judge. On such appeal the Supreme Court shall, with all convenient speed, review the evidence adduced in the cause in the court below, as well as the other proceedings therein; and the law applicable thereto, and give final judgment accordingly, either affirming or reversing the judgment below. If the appellant shall fail to prosecute his appeal pursuant to the rules and practice hereinafter provided for, the Supreme Court shall affirm the judgment of the court below. Where the sentence in the court below includes a term of imprisonment and an appeal bond is given and approved in manner aforesaid, the Supreme Court, if it affirm the judgment below, shall sentence the appellant to a term of imprisonment equal to that imposed by the court below, after deducting therefrom a period equal to the time of imprisonment, if any, already suffered by him under the sentence of the court below. The surety or sureties in any appeal bond given under the provisions of this section shall have the right at any time after its approval and until final judgment shall be rendered by the Supreme Court, and, in case the judgment of the court below shall be affirmed, until the expiration of the space of thirty days next following such affirmance, to take, wherever found, and render the appellant to the sheriff of the county in which he was sentenced; and a certified copy of the appeal bond shall be the sufficient warrant

for such surety or sureties for taking and rendering. If the Supreme Court shall reverse any judgment of the court below imposing a fine, and if the accused shall have fully paid such fine and costs of prosecution, the amount thereof shall be refunded to the appellant through a warrant drawn by the court below on the treasurer of the county in which the accused was sentenced. All the judges entitled to sit in the Supreme Court shall, as soon as conveniently may be, meet at the usual place of sitting of said court, and they, or a majority of them, shall adopt rules prescribing the forms and conditions of appeal bonds to be used under the provisions of this section, and the manner of certifying copies thereof, providing for the printing or reduction to writing of all oral evidence in the cause in the court below and of the opinion of said court, for the certification of the same when so printed or reduced to writing, and of copies thereof; for the copying and certification of all documentary or other written or printed evidence in the cause in the court below and of the record therein; for the transmission to the Supreme Court of such certified copies of such record, and of all the evidence adduced in the court below and of the opinion of said court for the transmission to the court below of a certified copy of the final judgment of the Supreme Court and of any additional sentence pronounced by said court, for the discharge of sureties in appeal bonds, and for the framing, issuance, service and enforcement of all process and rules necessary to give full effect to the provisions of this section; and regulating generally the practice and procedure of the Supreme Court and the court below in cases of appeal under this section. The said judges, or a majority of them, met as aforesaid, may also provide that when complaint shall be made in due form, prescribed by them, to any judge entitled to sit in the Supreme Court, that any offense mentioned in Section 7 of this Article has been committed in the county in which such judge shall reside, or out of the State, such judge shall have power to cause the person charged with such offense to be arrested within any county of this State and brought before him, and to bind him with sufficient surety, or, for want of bail, commit him for his appearance and answer at the next term of the Court of General Sessions in such manner and under and pursuant to such rules and regulations as the said judges, or a majority of them, shall prescribe. From time to time hereafter, whenever a majority of all the judges entitled to sit in the Supreme Court shall so request, all of the judges so

entitled shall, as soon as conveniently may be, meet at the usual place of sitting of said court; and they, or a majority of them, shall have power to revise, amend, add to or annul, any rule or rules theretofore adopted touching forms, practice or procedure in cases of appeal under this section, or arrest and binding or commitment for appearance and answer, in such manner and to such extent as in their judgment shall best serve to effectuate the purposes hereof. No person shall be adjudged guilty of any offense mentioned in Section 7 of this Article without the concurrence of all of the judges trying the case; and upon appeal no judgment of the court below shall be affirmed without the concurrence of all of the judges of the Supreme Court sitting in the case, and their failure to concur as aforesaid shall operate as a reversal of the judgment of the court below; provided, however, that such concurrence of the judges sitting in the Supreme Court shall not be necessary for the affirmance of the judgment of the court below where the appellant shall fail to prosecute his appeal pursuant to the rules and practice herein provided for.

SECTION 9. The enumeration of the offenses mentioned in Section 7 of this Article shall not preclude the General Assembly from defining and providing for the punishment of other offenses against the freedom and purity of the ballot, or touching the conduct, returns or ascertainment of the result of general, special or municipal elections, or of primary elections, conventions or meetings held for the nomination of candidates to be voted for at general, special or municipal elections. No prosecution under any act of the General Assembly passed pursuant to this section shall be subject to the provisions of Section 8 of this Article.

## ARTICLE VI. IMPEACHMENT AND TREASON

SECTION 1. The House of Representatives shall have the sole power of impeaching; but two-thirds of all the members must concur in an impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to the evidence. No person shall be convicted without the concurrence of two-thirds of all the Senators.

On the trial of an impeachment against the Governor or Lieutenant-Governor, the Chief Justice, or, in case of his absence or disability, the Chancellor shall preside; and on the trial of all other impeachments the President of the Senate shall preside.

SECTION 2. The Governor and all other civil officers under this State shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. Judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit, under this State; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment and punishment according to law.

SECTION 3. Treason against this State shall consist only in levying war against it, or in adhering to the enemies of the Government, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

#### ARTICLE VII. PARDONS

SECTION 1. The Governor shall have power to remit fines and forfeitures and to grant reprieves, commutations of sentence and pardons, except in cases of impeachment; but no pardon, or reprieve for more than six months, shall be granted, nor sentence commuted, except upon the recommendation in writing of a majority of the Board of Pardons after full hearing; and such recommendation, with the reasons therefor at length, shall be filed and recorded in the office of the Secretary of State, who shall forthwith notify the Governor thereof.

He shall fully set forth in writing the grounds of all reprieves, pardons and remissions, to be entered in the register of his official acts and laid before the General Assembly at its next session.

SECTION 2. The Board of Pardons shall be composed of the Chancellor, Lieutenant-Governor, Secretary of State, State Treasurer and Auditor of Accounts.

SECTION 3. The said board may require information from the Attorney-General upon any subject relating to the duties of said board.

#### ARTICLE VIII. REVENUE AND TAXATION

SECTION 1. All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws, but the General Assembly may by general laws exempt from taxation such property as in the opinion of the General Assembly will best promote the public welfare.

SECTION 2. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose alterations as on other bills; and no bill from the operation of which, when passed into a law, revenue may incidentally arise shall be accounted a bill for raising revenue; nor shall any matter or clause whatever not immediately relating to and necessary for raising revenue be in any manner blended with or annexed to a bill for raising revenue.

SECTION 3. No money shall be borrowed or debt created by or on behalf of the State but pursuant to an Act of the General Assembly, passed with the concurrence of three-fourths of all the members elected to each House, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or pay existing debts; and any law authorizing the borrowing of money by or on behalf of the State shall specify the purpose for which the money is to be borrowed, and the money so borrowed shall be used exclusively for such purpose; but should the money so borrowed or any part thereof be left after the abandonment of such purpose or the accomplishment thereof, such money, or the surplus thereof, may be disposed of according to law.

SECTION 4. No appropriation of the public money shall be made to, nor the bonds of this State be issued or loaned to any county, municipality or corporation, nor shall the credit of the State, by the guarantee or the endorsement of the bonds of other undertakings of any county, municipality or corporation, be pledged otherwise than pursuant to an Act of the General Assembly, passed with the concurrence of three-fourths of all the members elected to each House.

✓ SECTION 5. The General Assembly shall provide for levying and collecting a capitation tax from every male citizen of the State of the age of twenty-one years or upwards; but such tax to be collected in any county shall be uniform throughout that county, and such capitation tax shall be used exclusively in the county in which it is collected.

SECTION 6. No money shall be drawn from the treasury but pursuant to an appropriation made by Act of the General Assembly; provided, however, that the compensation of the members of the General Assembly and all expenses connected with the session thereof may be paid out of the treasury pursuant to resolution in that behalf; a regular account of the receipts and expenditures of all public money shall be published annually.

SECTION 7. In all assessments of the value of real estate for taxation, the value of the land and the value of the buildings and improvements thereon shall be included. And in all assessments of the rental value of real estate for taxation, the rental value of the land and the rental value of the buildings and the improvements thereon shall be included. The foregoing provisions of this section shall apply to all assessments of the value of real estate or of the rental value thereof for taxation for State, county, hundred, school, municipal or other public purposes.

SECTION 8. No county, city, town or other municipality shall lend its credit or appropriate money to, or assume the debt of, or become a shareholder or joint owner in or with any private corporation or any person or company whatever.

#### ARTICLE IX. CORPORATIONS

SECTION 1. No corporation shall hereafter be created, amended, renewed or revised by special act, but only by or under general law, nor shall any existing corporate charter be amended, renewed or revived by special act, but only by or under general law; but the foregoing provisions shall not apply to municipal corporations, banks or corporations for charitable, penal, reformatory, or educational purposes, sustained in whole or in part by the State. The General Assembly shall, by general law, provide for the revocation or forfeiture of the charters of all corporations for the abuse, misuse, or non-user of their corporate powers, privileges or franchises. Any proceeding for such revocation or forfeiture shall be taken by the Attorney-General, as may be provided by law. No general incorporation law, nor any special act of incorporation, shall be enacted without the concurrence of two-thirds of all the members elected to each House of the General Assembly.

SECTION 2. No corporation in existence at the adoption of this Constitution shall have its charter amended or renewed without first filing, under the corporate seal of said corporation, and duly attested, in the office of the Secretary of State, an acceptance of the provisions of this Constitution.

SECTION 3. No corporation shall issue stock, except for money paid, labor done or personal property, or real estate or leases thereof actually acquired by such corporation.

SECTION 4. The rights, privileges, immunities and estates of religious societies and corporate bodies, except as herein otherwise provided, shall remain as if the Constitution of this State had not been altered.

SECTION 5. No foreign corporation shall do any business in this State through or by branch offices, agents or representatives located in this State, without having an authorized agent or agents in the State upon whom legal process may be served.

SECTION 6. Shares of the capital stock of corporations created under the laws of this State, when owned by persons or corporations without this State, shall not be subject to taxation by any law now existing or hereafter to be made.

## ARTICLE X. EDUCATION

SECTION 1. The General Assembly shall provide for the establishment and maintenance of a general and efficient system of free public schools, and may require by law that every child, not physically or mentally disabled, shall attend the public school, unless educated by other means.

SECTION 2. In addition to the income of the investments of the Public School Fund, the General Assembly shall make provision for the annual payment of not less than one hundred thousand dollars for the benefit of the free public school, which with the income of the investments of the Public School Fund, shall be equitably apportioned among the school districts of the State as the General Assembly shall provide; and the money so apportioned shall be used exclusively for the payment of teachers' salaries and for furnishing free text books; provided, however, that in such apportionment, no distinction shall be made on account of race or color, and separate schools for white and colored children shall be maintained. All other expenses connected with the maintenance of free public schools, and all expenses connected with the erection or repair of free public school buildings shall be defrayed in such manner as shall be provided by law.

SECTION 3. No portion of any fund now existing, or which may hereafter be appropriated, or raised by tax, for educational purposes, shall be appropriated to, or used by, or in aid of any sectarian, church or denominational school; provided, that all real or personal property used

for school purposes, where the tuition is free, shall be exempt from taxation and assessment for public purposes.

SECTION 4. No part of the principal or income of the Public School Fund, now or hereafter existing, shall be used for any other purpose than the support of free public schools.

#### ARTICLE XI. AGRICULTURE

SECTION 1. There shall be a department established and maintained, known as the State Board of Agriculture.

SECTION 2. The said board shall be composed of three Commissioners of Agriculture, one of whom shall reside in each county in the State. Any two of them shall constitute a quorum for the transaction of business.

SECTION 3. The said Commissioners of Agriculture shall be appointed by the Governor, by and with the consent of a majority of all the members elected to the Senate, one for the term of one year, one for the term of two years, and one for the term of three years; and thereafter all appointments of Commissioners of Agriculture shall be made as aforesaid for the term of three years, and they shall hold office until their successors are duly qualified: provided, that any vacancy occurring in the office of Commissioner of Agriculture before the expiration of a term shall be filled by appointment as aforesaid for the remainder of the term; and provided further, that in case such vacancy shall occur when the Senate is not in session, such vacancy may be filled by the Governor without confirmation by the Senate until the end of the next session of the Senate.

SECTION 4. The said board shall have power to abate and prevent, by such means as the General Assembly shall prescribe, all contagious and infectious diseases of fruit trees, plants, vegetables, cereals, horses, cattle and other farm animals.

SECTION 5. The said Commissioners may devise such plans for securing immigration to this State of industrious and useful settlers as they may deem expedient, and such plans may be executed as prescribed by the General Assembly.

SECTION 6. The General Assembly shall provide by law for the compensation of the members of said board.

SECTION 7. The Board of Agriculture hereby established shall continue for eight years from the date of the qualification of the first member thereof, after which it may be abolished by the General Assembly.



## ARTICLE XII. HEALTH

The General Assembly shall provide for the establishment and maintenance of a State Board of Health, which shall have supervision of all matters relating to public health, with such powers and duties as may be prescribed by law; and also for the establishment and maintenance of such local boards of health as may be necessary, to be under the supervision of the State Board, to such extent and with such powers as may be prescribed by law.

## ARTICLE XIII. LOCAL OPTION

SECTION 1. The General Assembly may from time to time provide by law for the submission to the vote of the qualified electors of the several districts of the State, or any of them, mentioned in Section 2 of this Article, the question whether the manufacture and sale of intoxicating liquors shall be licensed or prohibited within the limits thereof; and in every district in which there is a majority against license, no person, firm or corporation shall thereafter manufacture or sell spirituous, vinous or malt liquors, except for medicinal or sacramental purposes, within said district, until at a subsequent submission of such question a majority of votes shall be cast in said district for license. Whenever a majority of all the members elected to each House of the General Assembly by the qualified electors in any district named in Section 2 of this Article shall request the submission of the question of license or no license to a vote of the qualified electors in said district, the General Assembly shall provide for the submission of such question to the qualified electors in such districts at the next general election thereafter.

SECTION 2. Under the provisions of this Article, Sussex County shall comprise one district, Kent County one district, the City of Wilmington, as its corporate limits now are or may hereafter be extended, one district, and the remaining part of New Castle County one district.

SECTION 3. The General Assembly shall provide necessary laws to carry out and enforce the provisions of this Article, enact laws governing the manufacture and sale of intoxicating liquors under the limitations of this Article, and provide such penalties as may be necessary to enforce the same.

## ARTICLE XIV. OATH OF OFFICE

Members of the General Assembly and all public officers executive and judicial, except such inferior officers as shall be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Delaware, and that I will faithfully discharge the duties of the office of \_\_\_\_\_, according to the best of my ability"; and all such officers, except as aforesaid, who shall have been chosen at any election, shall, before they enter upon the duties of their respective offices, take, and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office."

No other oath, declaration or test shall be required as a qualification for any office of public trust.

## ARTICLE XV. MISCELLANEOUS

SECTION 1. The Chancellor, Judges and Attorney-General shall be conservators of the peace throughout the State; and the Sheriffs and Coroners shall be conservators of the peace within the counties respectively in which they reside.

SECTION 2. No public officer shall receive any fees without giving to the person paying the same a receipt therefor, if required, therein specifying every item and charge.

SECTION 3. No costs shall be paid by a person accused, on a bill being returned ignoramus, nor on acquittal.

SECTION 4. No law shall extend the term of any public officer or diminish his salary or emoluments after his election or appointment.

SECTION 5. All public officers shall hold their respective offices until their successors shall be duly qualified, except in cases herein otherwise provided.

SECTION 6. All public officers shall hold their offices on condition that they behave themselves well. The Governor shall remove from office any public officer convicted of misbehavior in office or of any infamous crime.

SECTION 7. The matters within Section 30 of Article IV and Sections 7 and 8 of Article V are excepted from the provisions of the Constitution that "No person shall for any indictable offense be proceeded against criminally by information," and also from the provisions of the Constitution concerning trial by jury.

SECTION 8. All stationery, printing, paper and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding and distributing of the laws, journals, official reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the General Assembly and its committees, shall be performed under contract to be given to the lowest responsible bidder below such maximum price and under such regulations as shall be prescribed by law. Such bids shall be opened in the presence of the persons making the bids or their representatives.

No member or officer of any department of the government shall be in any way interested in any such contract when awarded to or by any such member, officer or department.

SECTION 9. This Constitution shall be prefixed to every codification of the Laws of this State.

## ARTICLE XVI. AMENDMENTS AND CONVENTIONS

SECTION 1. Any amendment or amendments to the Constitution may be proposed in the Senate or House of Representatives; and if the same shall be agreed to by two-thirds of all the members elected to each House, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the Secretary of State shall cause such proposed amendment or amendments to be published three months before the next general election in at least three newspapers in each county in which such newspapers shall be published; and if in the General Assembly next after the said election such proposed amendment or amendments shall upon a yea and nay vote be agreed to by two-thirds of all the members elected to each House, the same shall thereupon become part of the Constitution.

SECTION 2. The General Assembly by a two-thirds vote of all the members elected to each House may from time to time provide for the submission to the qualified electors of the State at the general election next thereafter the question, "Shall there be a Convention to revise the Constitution and amend the same?"; and upon such submission, if a majority of those voting on said question shall decide in favor of a Convention for such purpose, the General Assembly at its next session shall provide for the election of delegates to such Convention at the next general election. Such Convention shall be composed of forty-one delegates, one of whom shall be chosen from each Representative District by the qualified electors thereof, and two of whom shall be chosen from New Castle County, two from Kent County and two from Sussex County by the qualified electors thereof respectively. The delegates so chosen shall convene at the Capital of the State on the first Tuesday in September next after their election. Every delegate shall receive for his services such compensation as shall be provided by law. A majority of the Convention shall constitute a quorum for the transaction of business. The Convention shall have power to appoint such officers, employees and assistants as it may deem necessary, and fix their compensation, and provide for the printing of its documents, journals, debates and proceedings. The Convention shall determine the rules of its proceedings, and be the judge of the elections, returns and qualification of its members. Whenever there shall be a vacancy in the office of delegate from any district or county by reason of failure to elect, ineligibility, death, resignation or otherwise, a writ of election to fill such vacancy shall be issued by the Governor, and such vacancy shall be filled by the qualified electors of such district and county.

SECTION 3. The General Assembly shall provide for receiving, tallying and counting the votes for or against a Convention, and for returning to the General Assembly at its next session the state of such vote; and shall also enact all provisions necessary for giving effect to this Article.

SECTION 4. No bill or resolution passed by the General Assembly under or pursuant to the provisions of this Article, shall require for its validity the approval of the Governor, and the same shall be exempt from the provisions of Section 18 of Article III, of this Constitution.

SECTION 5. In voting at any general election, upon the question, "Shall there be a Convention to revise the Constitution and amend

the same?", the ballots shall be separate from those cast for any person voted for at such election, and shall be kept distinct and apart from all other ballots.

### SCHEDULE

That no inconvenience may arise from the amendments of the Constitution of this State, and in order to carry the same into complete operation, it is hereby declared and ordained as follows:

SECTION 1. The President of this Convention, immediately on its adjournment, shall deliver the enrolled copy of this amended Constitution and Schedule to the Secretary of State, who shall file the same in his office, and the Secretary of this Convention shall cause the same to be published three times in two newspapers in each county of the State.

SECTION 2. This amended Constitution shall take effect on the tenth day of June in the year one thousand eight hundred and ninety-seven.

SECTION 3. The offices of the present Senators and Representatives shall not be vacated or otherwise affected by this amended Constitution, except that the Senators whose terms do not expire on the day of the next general election shall thereafter represent the districts in which they now reside until the end of the terms for which they were elected.

At the general election to be held in the year one thousand eight hundred and ninety-eight, there shall be elected from each of the even numbered Senatorial Districts in the State, except District number two in New Castle County, District number four in Kent County, and District number two in Sussex County, a Senator for the term of two years, and from each of the odd numbered Senatorial Districts in the State a Senator for the term of four years.

And thereafter, as the said terms shall from time to time expire, a Senator shall be elected from each of the said Senatorial Districts for the full term of four years.

At the general election to be held in the year one thousand eight hundred and ninety-eight, there shall be elected in each Representative District in the State one Representative for the term of two years.

SECTION 4. The terms of Senators and Representatives shall begin on the day next after their election.

SECTION 5. The first general election under this amended Constitution shall be held on the Tuesday next after the first Monday in the month of November in the year one thousand eight hundred and ninety-eight.

SECTION 6. The term of office of the present Governor shall not be vacated, or in any wise affected by this amended Constitution.

SECTION 7. Unless otherwise provided by this amended Constitution or Schedule, all persons elected or appointed before this amended Constitution shall take effect, to State or county offices made elective by this amended Constitution, whose terms will expire before the first Tuesday in January in the year one thousand eight hundred and ninety-nine, shall hold their respective offices until the said last mentioned day; and all persons elected or appointed as aforesaid to such offices, whose terms will expire between the said first Tuesday in January in the year one thousand eight hundred and ninety-nine and the first Tuesday in January in the year one thousand nine hundred and one, shall hold their respective offices until the said last mentioned day; and all persons elected or appointed as aforesaid to such offices, whose terms will expire between the said first Tuesday in January in the year one thousand nine hundred and one and the first Tuesday in January in the year one thousand nine hundred and three, shall hold their respective offices until the said last mentioned day; and the successors of such persons shall be elected at the general election next before the expiration of the terms as hereby extended; provided, however, that the successors of the present Auditor of Accounts, State Treasurer and Insurance Commissioner shall be elected at the general election next preceding the expiration of their several terms of office, and the persons so elected shall enter upon the duties of their respective offices on the first Tuesday in January following their election. The officers whose terms of office are extended by this section shall renew their official obligations upon the expiration of their present terms.

✓ SECTION 8. The terms of office of all State and County officers made elective by this amended Constitution shall commence on the first Tuesday in January next after their election, unless otherwise provided in this amended Constitution or Schedule.

SECTION 9. All the courts of justice now existing shall continue with their present jurisdiction, and the Chancellor and judges shall continue in office until the tenth day of June in the year one thousand eight hundred and ninety-seven; upon which day the said courts shall be abolished, and the offices of the said Chancellor and judges shall expire.

All writs of error, and appeals and proceedings which on the said tenth day of June in the year one thousand eight hundred and ninety-seven

shall be depending in the Court of Error and Appeals, and all the books, records and papers of said court, shall be transferred to the Supreme Court established by this amended Constitution; and the said writs of error, appeals and proceedings shall be proceeded in the said Supreme Court to final judgment, decree or other determination.

All suits, proceedings, and matters which, on the said tenth day of June in the year one thousand eight hundred and ninety-seven, shall be depending in the Superior Court, and all books, records and papers of the said court shall be transferred to the Superior Court established by this amended Constitution, and the said suits, proceedings and matters shall be proceeded in to final judgment, or determination, in the said Superior Court established by this amended Constitution.

All indictments, proceedings and matters which, on the said tenth day of June in the year one thousand eight hundred and ninety-seven, shall be depending in the Court of General Sessions of the Peace and Jail Delivery, shall be transferred to and proceeded in to final judgment and determination in the Court of General Sessions established by this amended Constitution, or be otherwise disposed of by the Court of General Sessions, and all books, records and papers of said Court of General Sessions of the Peace and Jail Delivery shall be transferred to the said Court of General Sessions.

All indictments, proceedings and matters which, on the said tenth day of June in the year one thousand eight hundred and ninety-seven, shall be depending in the Court of Oyer and Terminer, shall be transferred to and proceeded in to final judgment and determination in the Court of Oyer and Terminer, established by this amended Constitution, and all books, records and papers of said Court of Oyer and Terminer shall be transferred to said Court of Oyer and Terminer established by this amended Constitution.

All suits, proceedings and matters which, on the said tenth day of June in the year one thousand eight hundred and ninety-seven, shall be depending in the Court of Chancery, or in the Orphans' Court, and all records, books and papers of said courts respectively, shall be transferred to Court of Chancery or Orphans' Court respectively, established by this amended Constitution; and the suits, proceedings and matters, shall be proceeded in to final decree, order or other determination.

SECTION 10. Unless otherwise provided, the Registers' Courts and the

jurisdiction of Justice of the Peace shall not be affected by this amended Constitution.

SECTION 11. If the Chancellor, Chief Justice, or any Associate Judge in office at the time this amended Constitution shall take effect shall not be appointed Chancellor, Chief Justice or Associate Judge under this amended Constitution, he shall be entitled to receive the sum of fifteen hundred dollars per annum, payable quarterly, for five years, after the expiration of his office, if he shall so long live.

SECTION 12. The first biennial session of the General Assembly under this amended Constitution shall commence on the first Tuesday in January in the year one thousand eight hundred and ninety-nine.

SECTION 13. The provisions of Section 15 of Article II, of this amended Constitution limiting the amount of the compensation of the members of the General Assembly and the presiding officers of the respective Houses shall not apply to any adjourned, special or extra session of the General Assembly held prior to the first Tuesday in January in the year one thousand eight hundred and ninety-nine.

SECTION 14. Until the General Assembly shall enact a general incorporation law as provided for in Section 1 of Article IX of this amended Constitution, existing corporations may be renewed for a period not exceeding four years, without change or enlargement of their corporate powers or duties, in the manner lawful before this amended Constitution shall take effect.

SECTION 15. Until the General Assembly shall otherwise provide, guardians' accounts shall be filed with and be adjusted and settled by the Register of Wills for the county, and be subject to exception, hearing, adjustment and settlement in the Orphans' Court for the county as before this amended Constitution took effect.

SECTION 16. Unless otherwise provided by this amended Constitution or Schedule, the terms of persons holding public offices to which they have been elected or appointed at the time this amended Constitution and Schedule shall take effect, shall not be vacated or otherwise affected thereby.

SECTION 17. One or more vacancies in the Board of Pardons shall not invalidate any act of the remaining members of said Board not less than three in number.

SECTION 18. All the laws of this State existing at the time this Con-



stitution shall take effect, and not inconsistent with it, shall remain in force, except so far as they shall be altered by future laws.

SECTION 19. The General Assembly, as soon as conveniently may be after this Constitution shall take effect, shall enact all laws necessary or proper for carrying out the provisions thereof.

DONE IN CONVENTION, the fourth day of June in the year of our Lord one thousand eight hundred and ninety-seven and of the Independence of the United States of America the one hundred and twenty-first.

IN TESTIMONY WHEREOF, we have hereunto subscribed our names.

John Biggs, President.

Edward G. Bradford, Charles B. Evans, George H. Murray, Martin B. Burris, James B. Gilchrist, William P. Orr, Jr., William A. Cannon, Robert G. Harman, Nathan Pratt, Paris T. Carlisle, Jr., Edward D. Hearne, Charles F. Richards, Wilson T. Cavender, Andrew J. Horsey, Lowder L. Sapp, David S. Clark, John W. Hering, William Saulsbury, J. Wilkins Cooch, Andrew L. Johnson, William T. Smithers, Ezekiel W. Cooper, Woodburn Martin, W. C. Spruance, Robert W. Dasey, Elias N. Moore, Isaac K. Wright, Joshua A. Ellegood.

Attest: Charles R. Jones, Secretary of C. C.

N. B. John P. Donahoe, a member of the Convention from New Castle County, refused to sign.

# DELAWARE MEN IN CONGRESS FROM 1765 TO 1788

## DELAWARE DELEGATES TO STAMP ACT CONGRESS IN 1765

Thomas McKean

Cæsar Rodney

## DELAWARE SIGNERS OF THE DECLARATION OF INDEPENDENCE

Cæsar Rodney

George Read

Thomas McKean

## DELAWARE DELEGATES TO THE CONTINENTAL CONGRESS FROM 1774 TO 1788

Thomas McKean	. . . . .	1774-76 and 1778-83
George Read	. . . . .	. . . 1774-77
Reëlected in 1779, but declined to serve.		
Cæsar Rodney	. . . . .	1774-78 and 1783-84
John Dickinson	. . . . .	1776-77 and 1779-80
John Evans	. . . . .	. . . 1776-77
Nicholas Van Dyke	. . . . .	. . . 1777-82
James Sykes	. . . . .	. . . 1777-78
Thomas Rodney	. . . . .	1781-83 and 1785-88
Philemon Dickinson	. . . . .	. . . 1782-83
Samuel Wharton	. . . . .	. . . 1782-83
James Tilton	. . . . .	. . . 1783-85
Eleazer McComb	. . . . .	. . . 1782-84
Gunning Bedford, Jr.	. . . . .	. . . 1783-86
John Vining	. . . . .	. . . 1784-86
John McKinly	. . . . .	. . . 1784-85
Henry Latimer	. . . . .	. . . 1784-85
Samuel Patterson	. . . . .	. . . 1784-85
John Patten	. . . . .	. . . 1785-86
William Peery	. . . . .	. . . 1785-86
Nathaniel Mitchell	. . . . .	. . . 1786-88
Gunning Bedford	. . . . .	. . . 1786-87
Dyre Kearney	. . . . .	. . . 1787-88

## PRESIDENT OF CONTINENTAL CONGRESS FROM DELAWARE

Thomas McKean, elected July 10, 1781.

## DELAWARE SIGNERS OF THE ARTICLES OF CONFEDERATION

Thomas McKean                      John Dickinson                      Nicholas Van Dyke

## DELAWARE SIGNERS OF THE CONSTITUTION OF THE UNITED STATES

George Read                      Jacob Broom                      John Dickinson  
Gunning Bedford, Jr.                      Richard Bassett

## GOVERNORS OF DELAWARE

## PROPRIETARY GOVERNMENT OF THE PENN FAMILY

Proprietors and Governors of Pennsylvania, and New Castle, Kent, and Sussex Counties on the Delaware before the formation of the State of Delaware:

William Penn, Proprietor . . . . .	March 4	1681
William Markham, Deputy-Governor . . . . .	April 20	1681
William Penn, Proprietor and Governor . . . . .	Oct. 24	1682
The Council (Thomas Lloyd and others presiding at different times) . . . . .	June 18	1684
Commissioners (Thomas Lloyd, Robert Turner, Arthur Cooke, John Simcock, John Eckley) . . . . .	Dec. 19	1687
Captain John Blackwell, Lieutenant-Governor . . . . .	Dec. 18	1688
The Council (Thomas Lloyd, President) . . . . .	Nov. 2	1689
Thomas Lloyd, Deputy-Governor of the Province . . . . .	March,	1691
William Markham, Deputy-Governor of the Lower Counties . . . . .	March,	1691
Benjamin Fletcher, Governor for the Crown . . . . .	April 26	1693
William Markham, Lieutenant-Governor for the Crown . . . . .	April 27	1693
William Markham, Governor for William Penn . . . . .	Sept. 24	1694
William Penn, Proprietor and Governor . . . . .	Oct. 21	1699
Andrew Hamilton, Lieutenant-Governor . . . . .	Nov. 14	1701
The Council (Edward Shippen, President) . . . . .	Dec. 19	1702

John Evans, Lieutenant-Governor . . . . .	Feb. 14	1703
Colonel Charles Gookin, Lieutenant-Governor . . . . .	Feb. 2	1708
William Keith, Lieutenant-Governor . . . . .	May 31	1717
Hannah Penn, Executrix for Proprietaries . . . . .	July 31	1718
Sir William Keith, Governor . . . . .	April 28	1719
Patrick Gordon, Lieutenant-Governor . . . . .	June 22	1726
John, Thomas, and Richard Penn, Proprietaries . . . . .	1727 to	1746
The Council (James Logan, President) . . . . .	Aug. 5	1736
Thomas Penn, Proprietary . . . . .	Sept. 28	1736
George Thomas, Lieutenant-Governor . . . . .	June 1	1738
Thomas and Richard Penn, Proprietaries . . . . .	1746 to	1771
The Council (Anthony Palmer, President) . . . . .	June 6	1747
James Hamilton, Lieutenant-Governor . . . . .	Nov. 23	1748
Robert Hunter Morris, Lieutenant-Governor . . . . .	Oct. 15	1754
William Denny, Lieutenant-Governor . . . . .	Aug. 27	1756
James Hamilton, Lieutenant-Governor . . . . .	Nov. 18	1759
John Penn, Lieutenant-Governor . . . . .	Nov. 1	1763
The Council (James Hamilton, President) . . . . .	May 6	1771
Thomas and John Penn, Proprietaries . . . . .	1771 to	1775
Richard Penn, Lieutenant-Governor . . . . .	Oct. 16	1771
John Penn, Governor . . . . .	Aug. 30	1773

#### PRESIDENTS OF DELAWARE UNDER THE CONSTITUTION OF 1776

John McKinly, inaugurated Feb. 21, 1777. On Sept. 11, 1777, the British troops captured Wilmington and took him prisoner; George Read, as Speaker of the Legislative Council, should have succeeded to the office, but as he was not able to reach the State because of the British troops, Thomas McKean (Speaker of the Assembly) acted as President from Sept. 11, 1777, to about Oct. 20, 1777, when Read returned and was President until March, 1778.

Cæsar Rodney . . . . .	March,	1778
John Dickinson . . . . .	Nov. 13	1781
John Cook . . . . .	Nov. 4	1782
Nicholas Van Dyke . . . . .	Feb. 8	1783
Thomas Collins . . . . .	Oct. 27, 1786 (died March 29, 1789)	
Joshua Clayton . . . . .	May 30	1789

## GOVERNORS UNDER THE CONSTITUTION OF 1792

Joshua Clayton . . . . .	Jan. 13	1793
Gunning Bedford . . . . .	Jan. 13, 1796 (died Sept. 30, 1797)	
Daniel Rogers (Speaker of the Senate) . . . . .	Sept. 30	1797
Richard Bassett . . . . .	Jan. 15, 1799 (resigned in March, 1801)	
James Sykes (Speaker of the Senate) . . . . .	March,	1801
David Hall . . . . .	Jan. 19	1802
Nathaniel Mitchell . . . . .	Jan. 15	1805
George Truitt . . . . .	Jan. 19	1808
Joseph Haslet . . . . .	Jan. 15	1811
Daniel Rodney . . . . .	Jan. 18	1814
John Clark . . . . .	Jan. 21	1817
(Henry Molliston was elected Governor in 1819, but died before January, 1820.)		
Jacob Stout (Speaker of the Senate) . . . . .	Jan. 18	1820
John Collins . . . . .	Jan. 16, 1821 (died in April, 1822)	
Caleb Rodney (Speaker of the Senate) . . . . .	April,	1822
Joseph Haslet . . . . .	Jan. 21, 1823 (died June 23, 1823)	
Charles Thomas (Speaker of the Senate) . . . . .	June 23	1823
Samuel Paynter . . . . .	Jan. 20	1824
Charles Polk . . . . .	Jan. 16	1827
Daniel Hazzard . . . . .	Jan. 19	1830

## UNDER THE AMENDED CONSTITUTION OF 1832

Caleb P. Bennett . . . . .	Jan. 15, 1833 (died July 11, 1836)	
Charles Polk (Speaker of the Senate) . . . . .	July 11	1836
Cornelius P. Comegys . . . . .	Jan. 17	1837
William B. Cooper . . . . .	Jan. 19	1841
Thomas Stockton . . . . .	Jan. 21, 1845 (died March 2, 1846)	
Joseph Maull (Speaker of the Senate) March 2, 1846 (died May 3, 1846)		
William Temple (Speaker of the House) . . . . .	May 3	1846
William Tharp . . . . .	Jan. 19	1847
William H. Ross . . . . .	Jan. 21	1851
Peter F. Causey . . . . .	Jan. 16	1855
William Burton . . . . .	Jan. 18	1859

William Cannon . . . . .	Jan. 20, 1863 (died March 1, 1865)	
Gove Saulsbury (Speaker of the Senate) . . . . .	March 1	1865
Gove Saulsbury . . . . .	Jan. 15	1867
James Ponder . . . . .	Jan. 17	1871
John P. Cochran . . . . .	Jan. 19	1875
John W. Hall . . . . .	Jan. 21	1879
Charles C. Stockley . . . . .	Jan. 16	1883
Benjamin T. Biggs . . . . .	Jan. 18	1887
Robert J. Reynolds . . . . .	Jan. 20	1891
Joshua H. Marvil . . . . .	Jan. 15, 1895 (died April 8, 1895)	
William T. Watson (Speaker of the Senate) . . . . .	April 8	1895

## GOVERNORS UNDER THE CONSTITUTION OF 1897

Ebe W. Tunnell . . . . .	Jan. 19	1897
John Hunn . . . . .	Jan. 15	1901
Preston E. Lea . . . . .	Jan. 17	1905

## HUNDREDS OF DELAWARE

### THE HUNDREDS OF NEW CASTLE COUNTY

Brandywine Hundred	Pencader Hundred
Christiana Hundred	Red Lion Hundred
Mill Creek Hundred	St. Georges Hundred
White Clay Creek Hundred	Appoquinimink Hundred
New Castle Hundred	Blackbird Hundred
Wilmington Hundred	

### THE HUNDREDS OF KENT COUNTY

Duck Creek Hundred	West Dover Hundred
Little Creek Hundred	North Murderkill Hundred
Kenton Hundred	South Murderkill Hundred
East Dover Hundred	Mispyllion Hundred
Milford Hundred	

### THE HUNDREDS OF SUSSEX COUNTY

Cedar Creek Hundred	Little Creek Hundred
Nanticoke Hundred	Dagsboro Hundred
Georgetown Hundred	Gumboro Hundred
West Fork Hundred	Baltimore Hundred
Seaford Hundred	Indian River Hundred
Broad Creek Hundred	Broadkiln Hundred
Lewes and Rehoboth Hundred	

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 Fee: the amount of money specified in the law, to be paid to public officers for their acts.  
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Writ: a paper under seal, issued by a court, in the name of the people, commanding the officer or person to whom it is addressed to do or to refrain from doing some act therein specified.

Writ of certiorari: a writ issued by a superior to an inferior court of record, requiring the latter to send to the former some proceedings therein pending, or the record or proceedings in some cause already terminated, in cases where the procedure is not according to law.

Writ of election, 96: a writ issued by a legally authorized officer ordering an election for a specific purpose in a stated district.

Writ of error, 82, 179: a writ issued out of a court of competent jurisdiction,

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Z

Zwaanendael, 10.

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